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James Stephen, the development of the colonial office and the administration of three crown colonies : Trinidad, Sierra Leone and Ceylon.

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**JAMES STEPHEN, THE DEVELOPMENT OF THE COLONIAL OFFICE
AND THE ADMINISTRATION OF THREE CROWN COLONIES:
TRINIDAD, SIERRA LEONE AND CEYLON.**

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1969

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A B S T R A C T

This thesis is designed as a contribution to the study of the life and career of James Stephen (1789-1859) who was permanent under-secretary in the Colonial Office from 1836 until 1847. It comprises a series of case studies in two parts. The first part deals with the Colonial Office as an administrative institution and examines Stephen's influence on its development. The second part comprises three separate studies of what were called "crown colonies" and investigates Stephen's opinions on their administrative problems. In the Introduction the scope of the thesis is outlined and some of the main attacks on Stephen by his contemporaries and by more recent critics are analysed. In Chapter I a sketch is provided of Stephen's early career and of the process by which he rose to become the leading Colonial Office civil servant. Chapter II deals with Stephen as a reformer of the Colonial Office bureaucracy and attempts to assess his contribution to the development of the civil service in the nineteenth century. Chapter III is an analysis of Stephen's views on the administration of Trinidad with particular reference to questions of slavery and the social, economic and political consequences of emancipation. Chapter IV deals with Sierra Leone administration and covers such topics as imperial expansion and the problem of recaptive settlement. Chapter V examines the administration of Ceylon and explores Stephen's policies

on subjects like the caste system, religion and legal reforms. In each of the three crown colony studies an attempt is made to probe Stephen's underlying philosophy from an examination of his actual policies and opinions. The Conclusion attempts to bring together, along with the author's judgments, some of the main themes which have emerged.

I N T R O D U C T I O N

Throughout his life James Stephen was the target of virulent public abuse. Edward Gibbon Wakefield, Charles Buller and Sir William Molesworth were merely the most famous of a great number of hostile critics. The man who was the Colonial Office's legal counsel from 1813 and its permanent under-secretary from 1836 spent his official life in the glare of public opprobrium. The much-repeated criticisms gradually gained currency. Despite contradictions from many leading statesmen, they continued to attract public attention long after Stephen retired from government service in 1847. The legend was born of James Stephen as "Mr. Mother-Country" (an ironic and not, as perhaps it sounds, a flattering title), "King Stephen", "Mr. Over-Secretary Stephen", the¹ domineering bureaucrat with all the worst characteristics of his kind.

The charges which were made against Stephen during his lifetime have today an oddly contemporary ring. Here for the first time an official was regaled in public with those vices which are now customarily attributed to rampant bureaucracy - the 'red-tape', the legalistic pedantry, the dilatoriness, the stultifying formality, the insensitivity, the detachment from the real problems and requirements of the public at large. Stephen was held to epitomise the self-perpetuating, pettifogging,

1. E.M. Wrong, (ed.), Charles Buller and Responsible Government (Oxford, 1926), pp. 137-62 is the most famous attack. A list of the main attacks in periodicals is given in the Bibliography, p.375.

procrastinating officialdom, churning out its endless reams of ill-written memoranda to baffle both patrons and penitents.

Had he been to his critics simply the prototype of the faceless men of Whitehall, however, Stephen would have suffered less of their constant and prolonged abuse. But he was certainly well known and his critics claimed to detect method in his errant ways. He was the son of a fanatical parliamentary abolitionist and the brother of a leading anti-slavery propagandist. His enemies were only too well aware that he himself sympathised with the family campaign. He was also a devout churchman, an ardent supporter of missionary activities and a generous philanthropist. These were the marks of a "Saint", a man connected with the circle of Evangelicals popularly known as "the Clapham Sect". This group, which was extremely influential in the empire in the early nineteenth century, had acquired for itself through its abolitionist agitation a great many enemies and its unpopularity¹ was passed on to its disciples.

His identification as a Saint allowed his critics to complete the caricature of the Colonial Office bureaucrat. To the follies of the desk-bound mind were to be added the self-indulgences of the altruistic fanatic. Not only was Stephen interfering and inefficient, it was said, but his influence was used perniciously. Like all bureaucrats,

1. E.M. Howse, Saints in Politics (London, 1952) gives an account of their activities.

he was an authoritarian, wishing to dictate to his chiefs and his subordinates as well as to all governors and colonial officials. Nothing could be done in the Colonial Office or in the colonies without first a reference to Mr. Mother Country. Like all zealots, he was a visionary, imposing wildly impracticable schemes on unwary colonists, frustrating them by his tortuous pedantries or by his grandiose attempts to serve some foolish ideal at the cost of all that good sense and moderation dictated. Some critics, on the lunatic fringe, were even more hostile. They regarded Stephen's philanthropy and his official secrecy as a cover for something more sinister, perhaps an attempt to subvert the empire in the name of republicanism or to use it for his own private ends. Against such dishonest and misguided authority, energetic governors and industrious settlers laboured in vain. In every case where colonial policy failed, so these critics maintained,¹ Stephen's secret influence was the ultimate cause.

This portrait of Stephen was the work of many hands and yet it left such a powerful impression that later historians incorporated it into their works.² But it did not go unchallenged. Stephen's children,

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1. See the articles in The Spectator, John Bull, and The Quarterly Review cited in the Bibliography, p. 375.
 2. E.g. J.S. Marais, The Colonization of New Zealand (Oxford, 1927), pp. 19-22, 40, 193; Paul Bloomfield, Edward Gibbon Wakefield: Builder of the British Commonwealth (London, 1961), p. 48; W.P. Greswell, The Growth and Administration of the British Colonies, 1837-1897 (London, 1898), pp. 15, 30.

his sons, James Fitzjames and Leslie, and his daughter, Caroline Emelia, denied the likeness. They attempted to rescue their father's reputation by publishing the forgotten testimonials which he had received from the leading political figures of his day, Sir Robert Peel, Lord John Russell, William Ewart Gladstone, Lord Stanley and Earl Grey. Piecing together their memories of childhood and youth and the information which friends conveyed, they were able to present a more sympathetic picture of Mr. Mother-Country.¹ The publication in 1885 of an autobiography by Henry Taylor, the Colonial Office clerk and playwright who was Stephen's close friend, helped to undermine some of the criticisms which had been made of Stephen in his lifetime.² But Stephen's children and Taylor were so obviously prejudiced that their portraits seemed equally inexact.

It was not until the 1920s when the late Paul Knaplund produced his celebrated articles on "Mr. Over-secretary Stephen" that a reliable

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1. E.g. James Fitzjames, Stephen's introduction to the 1860 edition of James Stephen, Essays in Ecclesiastical Biography (3rd edit., London, 1860), pp. xi-xvi; Leslie Stephen, The Life of Sir James Fitzjames Stephen (London, 1895), pp. 41-65; & C.E. Stephen The First Sir James Stephen (Gloucester, 1906). In his later years Stephen had been gathering material for his children to use in defending him: Stephen to Grey, 3 Mar. 1848, Grey Papers, Stephen.
 2. Henry Taylor, Autobiography (London, 1885), vol. 1, pp. 123-304.

account of Stephen's work and beliefs began to emerge.¹ Thirty years later Knaplund himself in his book "James Stephen and the British Colonial System, 1813-1847"² demolished many of the criticisms advanced by Molesworth, Buller and Wakefield. Stephen is presented by Knaplund as a man of acuteness, courage and integrity, a skilled administrator largely free from such vices as legal pedantry or dilatory formalism, an influential but not a domineering subordinate. Knaplund's work is impressive but by his own admission it is not comprehensive. He worked almost entirely from Stephen's reports on colonial laws. His treatment is too general to allow for a detailed study of Stephen's contribution to the empire, too technical to appreciate his role as a bureaucrat. But Knaplund had opened a mine where other scholars could quarry.

Subsequent research on Stephen and the empire in his day has tended to support Knaplund's conclusions. Scholars working on such different topics as the vexed problems of responsible government, land settlement, imperial expansion and slavery, have in general preferred his interpretation

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1. Paul Knaplund, "Sir James Stephen and British North American Problems, 1840-1847", Canadian Historical Review, V, 1924, pp. 22-41; & "Mr. Oversecretary Stephen", Journal of Modern History, I, 1929, pp. 40-66; & "Sir James Stephen on a White Australia", Victorian Historical Magazine, XII, 1928, pp. 240-2.
 2. Paul Knaplund, James Stephen and the British Colonial System, 1813-1847 (Madison, Wisconsin, 1953).

to that of Wakefield. On Australia and New Zealand especially, where the colonial reformers' charges were most bitter and persistent, thorough and painstaking research has revealed Wakefield's weaknesses and shown the strength of the permanent under-secretary's case. In Canada and in the West Indies, too, the charges brought against Stephen have been largely discredited.¹ But Knaplund's interpretation, though it has provided the starting point for all subsequent research on Stephen, has certainly not received unanimous support. "Mr. Mother Country" is still a controversial figure.

Though the modern critics may have changed their arguments, they have lost little of the emotion of their nineteenth century predecessors. There is, for example, no mistaking the heavy irony with which Oliver MacDonagh refers to "the great James Stephen" though Wakefield for one would have been startled to hear that on colonial affairs Stephen "contented himself with a melancholy contemplation of the folly and hopeless misery of mortals".² Nor can it be doubted that Helen Taft

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- 1.. E.g. The extensive references to Stephen in A.C.V. Melbourne, Early Constitutional Development in Australia (London, 1934), especially p. 91; Peter Burroughs, Britain and Australia, 1831-1855 (Oxford, 1967) especially, pp. 152-3; J.S. Galbraith, Reluctant Empire (Berkeley and Los Angeles, 1963), especially pp. 12-16; Trevor Williams, "James Stephen and British Intervention in New Zealand 1838-40", Journal of Modern History, XIII, 1941, pp. 18-35; D.J. Murray, The West Indies and the Development of Colonial Government (Oxford, 1965), especially pp. 149-50.
 2. Oliver MacDonagh, A Pattern of Government Growth, 1800-60 (London, 1961), p. 86

Manning's impatience with Stephen and his political clique has in its sentiment a long and respectable pedigree though the colonial reformers would have probably been amazed to hear her impugn Stephen's intelligence.¹ Among modern commentators MacDonagh and Manning must answer David Murray and D.M. Young who are at one with Henry Taylor in their admiration and praise for Stephen and his work.² Was Stephen then, as his new critics maintain, a man with small influence and little sense, an ineffective fumbler who turned his back on awkward problems, a hopeless reactionary on all except slavery and missionary questions and a blind bigot on them? Or are the new criticisms as unjustified as the old?

Interpretations differ so widely partly because the basic research, colony by colony, subject by subject, has still not been completed. Each historian deals simply with his own interests in terms of subject and period. As Stephen held an administrative office for thirty-four years, some change over this period in his views and in his contribution should not occasion surprise.³ A complete account of his extensive career will

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1. H.T. Manning, "Who Ran the British Empire, 1830-50?", Journal of British Studies, 1965, V, no. 1, pp. 88-121.
 2. D.J. Murray, The West Indies, pp. 121-2; D.M. Young, The Colonial Office in the Early Nineteenth Century (London, 1961), p. 58.
 3. A recent study of Stephen's legal reviews suggests that he did alter his opinions particularly on the question of colonial self-rule: D.B. Swinfen, "Attitudes within the Colonial Office towards Imperial Control of Colonial Legislation, 1826-1865", University of Oxford D.Phil thesis, 1965, pp. 72-3.

only be possible when individual and detailed studies have been made of the relevant Colonial Office records. Such was Stephen's energy and productiveness in office, however, that this will be no easy task. Stephen left behind him in the records of the Colonial Office a documentary legacy of forbidding dimensions. To analyse all the minutes, memoranda, notes, drafts and dispatches which he wrote would be an enormous undertaking. One method of beginning a more detailed investigation is to make specialist studies of major topics or of individual colonies. This thesis, by concentrating on two topics hitherto rather neglected, Stephen's contribution to the bureaucracy and to the administration of the crown colonies, is a modest attempt to supply one such study.

There is still no agreement on the role Stephen played as a bureaucrat. Most recent verdicts assert that he was an able civil servant with enlightened views on the conduct of administration.¹ But doubts remain. For R.B. Pugh "the head of a great Office should be persona grata with what has been called its 'special public', and by that test Stephen must be accounted a failure". He also "engrossed too much work" and consequently both delayed an improvement in the quality of clerks and prevented a better distribution of their functions.² Oliver

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1. E.g. D.M. Young, The Colonial Office, pp. 115-20; D.J. Murray, The West Indies, pp. 224-9.
 2. E.A. Benians, Sir James Butler & C.E. Carrington (eds.), The Cambridge History of the British Empire (Cambridge, 1959), (hereinafter cited as C.H.B.E.), III, p. 724.

MacDonagh has even less to say for him. He was lacking in sympathy and creativeness and too legalistic and pessimistic ever to see how¹ the faults of the civil service could be corrected. These verdicts must be set in historical perspective. Stephen joined an office in 1813 which had been created only twelve years before. The process by which he rose to become the leading civil servant is paralleled by the rise of the office as an institution of government. Only by studying the former process and its interaction with the latter can the full significance of Stephen's bureaucratic reforms be appreciated.

The crown colony system of government was also new when Stephen became legal counsel. Some historians insist that its origins must be traced back to the Quebec Act of 1774 which first allowed a colony within the British Empire to practice the laws and customs of an alien society while denying it the grant of a representative assembly. Others prefer to see the crown colony system as a product of the American War of Independence when captured foreign settlements were governed under a similar arrangement. But most historians would maintain that the more immediate origins lie in the acquisitions of the French Revolutionary² and Napoleonic Wars. Then the captured colonies were used not just as

1. O. MacDonagh, A Pattern of Government Growth, pp. 106-7.

2. For the fullest account see Vincent Harlow, The Founding of the Second British Empire (London, 1952, 1964, 2 vols). See also D.J. Murray, The West Indies, pp. 32-88; H.T. Manning, British Colonial Government after the American Revolution (New Haven, Connecticut, 1933), pp. 289-392. As a legal device, however, the crown colony concept can be traced back to medieval origins. See the essay by Dr. Madden "Some Origins and Purposes in the Formation of British Colonial Government" in Kenneth Robinson and Frederick Madden (eds.), Essays in Imperial Government Presented to Margery Perham (Oxford, 1963) pp. 1-22, especially pp. 8-9.

bargaining counters for the peace settlement but as part of a new imperial plan to acquire strategic posts or entrepôts to aid commercial ventures. By this interpretation St. Lucia, Trinidad and British Guiana gave access to South American markets; Sierra Leone, the Cape of Good Hope, Mauritius and Ceylon secured one route to India and the East; Gibraltar, Malta and the Ionian Islands secured another.

This is not the place to discuss the eighteenth century origins of the crown colony concept nor to analyse the motives which led to the acquisition and establishment of crown colonies in the early nineteenth century. But to understand Stephen's work it is essential to appreciate that with crown colonies as with the Colonial Office he was dealing with a largely undefined entity. In the early part of his career, when he was legal counsel, the indefinite nature of the crown colony system secured important advantages for him. Because of the contemporary debate on what a crown colony constitution involved and because of the increased powers which the crown and the crown's ministers possessed in crown colonies, an opportunity was provided for the legal counsel to define and exercise his official powers more widely than had been possible under the old colonial system. Just as the indefinite nature of colonial government in Britain affected Stephen's role in the office, so the indefinite nature and growing importance of the crown colony system enabled Stephen to increase his influence and develop his role in the formation of colonial policy. The two processes, in fact, complemented and reinforced each other.

The basic distinction between a crown colony and a colony of the old colonial system was in legal status and had its immediate origins in the celebrated judgement of Lord Mansfield in the Campbell Vs Hall case of 1774.¹ There Lord Mansfield had ruled that in a colony conquered from a foreign power, as opposed to a colony of British settlement, the crown, by virtue of its prerogative, had the power to alter old laws and to make new ones. This power was subordinate to that of the King in Parliament and it could not be exercised contrary to certain largely undefined fundamental principles. When the conquered colony was promised representative institutions, the crown divested itself of this legislative power which passed to the colonial legislature. A second aspect of Lord Mansfield's judgement of great importance for a legal counsel was that the local law and legislation of the colony was held to be the true law for questions arising there, subject to any articles of capitulation under which the colony was surrendered. The local law remained in force until altered by the conqueror.²

Most of the colonies which by 1836 were normally called crown colonies had originally been conquered and ceded during the French Revolutionary and Napoleonic Wars and so were subject to Lord Mansfield's decision.³ But many were not. Sierra Leone, for example, was

1. C.H.B.E., II, pp. 153-4.

2. A.B. Keith, (ed), Speeches and Documents on British Colonial Policy, 1763-1917 (Oxford, 1948, 2nd edit.), pp. 35-52.

3. This applied to Trinidad, St. Lucia, British Guiana (Berbice, Demerara & Essequibo), Gibraltar, Malta, The Cape, Mauritius and Ceylon.

acquired by purchase and cession, not by conquest, and it was established as a settlement colony even though the settlers were not predominantly native-born Englishmen. New South Wales was claimed by right of prior discovery and was also a settlement colony though not predominantly of free Englishmen. In the nineteenth century every new colony, however acquired, by settlement, purchase, cession or conquest, became initially a crown colony. Lord Mansfield's original definition[?] no longer covered every case. A "crown colony" was simply a colloquial title for all¹ colonies which, for whatever reasons, did not possess an assembly.

Not only was the definition vague but there was little uniformity in the conduct of crown colony administration. [Legislation affecting crown colonies was passed not only by the crown in Parliament and the crown in privy council but also and preeminently by local legislatures.] The line between the two spheres of authority, local and imperial, was left undefined, as it was with colonies possessing assemblies, but in general the metropolitan government preferred to remain aloof. One historian has recently maintained convincingly that, even in crown colonies in the West Indies, the initiative in legislative and administrative activity, except for certain questions of surpassing importance such as slavery,² lay in practice almost entirely with the local governments.

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1. E.g. Table of colonial statistics for 1829; Memoranda on the Colonial Office, 143/3/5, Grey Papers. It was simply a working distinction in the C.O. e.g. Horton to Griffin, 12 Jan. 1826, C.O. 324/145, pp. 229-31.
 2. D.J. Murray, The West Indies, pp. 67-88, 230-2.

Since each crown colony was governed by a set of laws peculiar to itself and generally guaranteed by its articles of capitulation, the amount of local variation was prodigious.

Because of this high degree of local variety, a study of Stephen's role in relation to the crown colonies would involve an almost unmanageable survey of specialised colonial problems. By choosing three colonies which appear both significant and representative it may be possible perhaps to discover how Stephen was able to utilise and to influence the developing crown colony system. In this study Trinidad, the laboratory¹ of the crown colony experiment, will serve to illustrate trends in the West Indies, Sierra Leone will demonstrate the African variant, and Ceylon will stand for the empire in the East.

Trinidad, separated by the narrow gulf of Paria from the coast of Venezuela, is the largest and most southerly of the islands of the Lesser Antilles. Discovered by Europeans in 1498, the colony was settled and ruled by the Spanish at the end of the sixteenth century. Despite several attempts to develop it as a commercial enterprise, the island remained for the most part uncultivated and it possessed only a tiny population until the second half of the eighteenth century. The promulgation of the famous royal cedula on colonisation in 1783 which

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1. Colonies which became predominantly British settlements and early acquired responsible government have been omitted from consideration in order to provide a clearer focus. This omission is justified since contemporaries considered them as a separate case: Ley to Colonial Office, 6 June 1844, Stephen's minute 12 June 1844, C.O. 323/230, f.6.

broke with the exclusive Spanish imperial system and invited Roman Catholic settlers of any nationality to acquire land, led to an influx of French planters. The liberal provisions of the Spanish law which promised full rights of citizenship to white and coloured citizens alike, attracted also a large number of free Negroes to the island, giving Trinidad a distinctly higher proportion of free citizens than other West Indian islands.

Trinidad was captured by the British in 1797 and was recognised as a British possession at the Peace of Amiens in 1802. By the terms of capitulation, Spanish laws, institutions and civil rights were retained. The British thereby inherited a Spanish system of colonial government which was autocratic and unrepresentative but not entirely absolutist. Checks had been placed on the governor's absolutism by three methods. He was made responsible for some of his actions to the royal audiencia in Caracas; his administration was the subject of an enquiry, the residencia, on his retirement, and he had to consider the wishes of the cabildo or the local council in Port of Spain. These checks were abandoned with the British conquest. Early British governors, perplexed by enormous land problems in a colony still largely uncultivated and alarmed at the prospect of ruling potentially rebellious Frenchmen, had no time to examine the finer points of Spanish government. Instead they simply substituted a British for a Spanish autocratic colonial system with an appointed council to aid the governor but with no representative institutions. In the years before Stephen became counsel in 1813, the battles between

contending interests of merchants, planters, anti-slave trade supporters and colonial administrators had begun to break down the Spanish system in favour of more familiar West Indian precedents. The legislative initiative of governor and council was assumed and the separation of the executive and judicature was instituted on the model of the old West Indian colonies. But, since an assembly was refused, Spanish laws and institutions remained.¹

The colony of Sierra Leone, on the coast of West Africa, occupied in the first half of the nineteenth century only the small peninsula, eighteen miles long and twelve miles wide, on which Freetown now stands. This area was purchased in 1788 from the local Temne chief and ceded to the Sierra Leone Company which derived its sovereign authority from a royal charter of 1791. From the first, the settlement was designed as a philanthropic venture to furnish free Negroes in Europe and the New World with an African home. Intending settlers were promised a free passage and a grant of land. Once settled, the colony was to attempt by example and persuasion to suppress slave trading throughout West Africa. The early settlers were recruited from amongst London's "black poor", from Nova Scotian and New Brunswick Negroes, many of whom had

1. For the early history of British Trinidad see Gertrude Carmichael, The History of the West Indian Islands of Trinidad and Tobago, 1498-1900 (London, 1961), pp. 1-104; D.J. Murray, The West Indies, pp. 67-88; J.C. Millette, "Constitutional Development in Trinidad, 1783-1810", University of London, Ph.D. thesis, 1964; L.M. Fraser, History of Trinidad, 1781-1839 (Port-of-Spain, n.d. & 1896), 2 vols.

once been Loyalists in the American revolution and disliked their new homes in the north, and from the Maroons in Jamaica. There was also a European element of merchants, adventurers and officials and, after the first settlements, indigenous peoples from elsewhere on the coast found temporary employment or residence in the colony.

The Sierra Leone charter allowed the Company directors to make laws and create institutions for governing the colony. After many vicissitudes, a local government comprising an autocratic governor with an advisory council was eventually established. A charter of justice of 1800, subsequently amended in 1810, adapted English law to meet the circumstances of Sierra Leone. The early years of the colony's existence were severely troubled by internal dissensions and by wars with the neighbouring Temne tribes. But in 1807, the year of the Slave Trade Abolition Act, three events finally put the colony on a stable footing. A settlement was wrung from the Temne which guaranteed the Company's rights to its territory; control of the colony was taken over from the Company by the crown though leaving the government and legal system unchanged; and Freetown was designated a seat of a Vice Admiralty Court which could try cases of slave trading at sea. Thereafter captured slave ships were brought to the colony, providing a new source of Negro settlers in their released slave cargoes, and beginning in earnest the process of settlement and development.

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1. For the early history of Sierra Leone, see Christopher Fyfe, A History of Sierra Leone (Oxford, 1962), pp. 1-126; G.R. Mellor, "British Policy in Relation to Sierra Leone 1808-1852", University of London, M.A. thesis, 1935, especially chapter 1; E.C. Martin, The British West African Settlements: A Study in Local Administration, 1750-1821 (London, 1927), pp. 103-66.

Ceylon, lying in the Indian Ocean, just off the south-eastern tip of the Indian subcontinent, is the largest of the three crown colonies. In the early nineteenth century it had an extremely large indigenous population composed of two main racial stocks, Sinhalese and Tamil. Its recorded history went back to several centuries before the birth of Christ. Ceylon was known to the Greeks and Romans. It was first visited by the Portuguese in the later fifteenth century and from 1505 until 1658 the Portuguese ruled a small coastal strip, about twenty miles deep, stretching round the island. Portuguese colonial government was highly centralised with an autocratic governor at the top ruling over the feudal hierarchical indigenous government. The main preoccupation of the Portuguese was to enforce an economic monopoly over the production and export of cinnamon. The Portuguese were ousted by their rivals in Eastern trade, the Dutch, who ruled the maritime provinces from 1658 until 1796. The Dutch continued the system of centralised, autocratic government, making further inroads into native self-rule though also limiting their control to the top echelons of government and interesting themselves mainly in protecting their economic monopoly. Dutch law was introduced to facilitate commercial and fiscal undertakings. Though the effects of Portuguese and Dutch rule may not have been very profound outside commercial circles, there is no doubt that they began the process of undermining indigenous laws and institutions. The face of Ceylon was slowly turning to the west. In the "Burgher" community, for example, composed of people of mixed parentage, Dutch and

native-born, a westernized, urbanized bureaucratic class was created which was to be of considerable help to the British.

The Dutch possessions in Ceylon were captured by the British in 1796. Until 1802 the new colony was governed from Madras though, under the terms of the articles of capitulation, Dutch laws, institutions and civil rights were conceded to the local population. The period of "dual control" of East India Company and crown from 1798 to 1802 was an unhappy one characterised by civil unrest but in these years Ceylon emerged as a typical crown colony with a governor and advisory council. In 1802 the connection with the East India Company was broken and Ceylon was placed fully under the control of the recently formed Colonial Department in London. But Dutch laws and institutions and traditional Ceylonese indigenous offices and customs were continued. No assembly was created and certain monopolistic features such as the control of cinnamon exports were retained.

Even before 1815 the British government in Ceylon began to institute a series of reforms which departed from the traditional feudal and autocratic system of government. The local civil service was reformed and the judiciary and exchequer system reorganised. European settlement was encouraged to stimulate commercial development. The greatest achievement was the acquisition in 1815 of the hitherto independent Kingdom of Kandy which occupied the large mountainous region in the centre of the island. For the first time since the Europeans arrived, Ceylon was united under one ruler. But Kandy was not conquered. The kingdom

was ceded to the British in the so-called Kandyan Convention by a deputation of leading citizens who had conspired to depose their monarch and put the British king in his place. Consequently, in the Convention the British negotiators conceded to the Kandyans the full enjoyment of their traditional system of laws, religion and customs which meant, in effect, perpetuating a feudal-type of government hitherto largely unaffected by Europeans and so continuing two administrative systems in Ceylon. Some Kandyan chiefs, however, were unhappy under their new ruler and only after a rebellion had been ruthlessly suppressed in 1817-8¹ did Kandy submit to the legislative power of the central government.

Though their problems were very different the three crown colonies had certain features in common. All of them had large populations of non-British stocks unrepresented in the local government; in all of them there was a European minority, with a powerful influence in the local government, whose interests might be at odds with those of the non-European colonists; all had a confused legal system and a tradition of authoritarianism; all had an autocratic governor whose powers, especially legislative, were practically unrestricted though in each colony there was an advisory council to aid the governor; and all were economically undeveloped and in financial difficulties. These, then, were the problems which Stephen first confronted in 1813.

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1. For the early history of British Ceylon see L.A. Mills, Ceylon under British Rule, 1795-1932 (London, 1933), pp. 1-58; C.R. de Silva, Ceylon under the British Occupation (Colombo, 1953), 2 vols; P.D. Kannangara, The History of the Ceylon Civil Service, 1802-1833 (Dehiwala, Ceylon, 1966), xi-xxxi, 1-188; G.C. Mendis (ed), The Colebrooke-Cameron Papers (London, 1956), especially volume 2.

CHAPTER I

James Stephen and the Emergence of the Colonial Office

(1) Formative Years:

James Stephen, the third son of James Stephen, the abolitionist, and Anna Stent, the daughter of a city financier, was born on January 3rd, 1789, in the borough of Lambeth. His parents were then on holiday in England. Stephen's father, a lawyer by profession, was employed in the island of St. Christopher in the West Indies, and he returned there with his family a few months after the birth of his son. They were soon back in England for good. His father's increasing dissatisfaction with West Indian society and the attractions of a career in England led¹ to their final departure from St. Kitts in 1794.

The period of five years which Stephen, Junior, spent in the West Indies was the only occasion on which the later Colonial Office under-secretary actually set foot in a colony. He was obviously too young to have acquired any lasting impression of what he saw and nothing of the² experience is mentioned in his later correspondence or writings. Yet he had encountered without knowing it the problem which was in large measure to dominate his working life - slavery and its victims. In England he grew up, one of a fairly large family, in the calm and comfort

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1. For the career of James Stephen, Senior, see the article by Leslie Stephen in the Dictionary of National Biography (London, 2nd edit., 1909), vol. xviii, pp. 1048-50; Leslie Stephen, The Life of Sir James Fitzjames Stephen (London, 1895), especially Chapter v, pp. 41-65; & Merle Bevington, The Memoirs of James Stephen (London, 1954).
 2. No mention is made of it, for example, in his diary for 1846 nor in his published works. For a full list of material consulted, see the Bibliography.

of residential Kensington and Clapham. His early upbringing was very strict and seemed to him in retrospect characterised by sadness, dreariness and a total absence of humour.¹ In 1796, when he was only seven years old, his mother died, and this loss doubtless worsened the painful shyness and heavy seriousness which he exhibited in childhood and adult life. Four years later, his father married Mrs. Clarke, the widowed sister of his friend, William Wilberforce. Her eccentricities made the second Mrs. Stephen an odd and difficult step-mother. Parental strictness might have been offset by intelligent schooling but the children's education was rather desultory. James Junior was farmed out to a variety of schoolmasters; yet somehow he acquired at this time an appetite for reading which not even defective eyesight, caused by an attack of smallpox in childhood, could assuage.²

His family environment had a profound influence in shaping Stephen's early life. By 1800 the elder Stephen had become one of the pillars of that circle of Evangelicals and anti-slavery supporters known as the

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1. Stephen Diary, entry for 25 July 1846 made on 16 August 1846. The original diary is deposited in the Cambridge University Library [MS. Add. 7511(F)] and a copy made by Caroline Emelia Stephen is contained among the Stephen Papers. Stephen may have been a rather rebellious child as this extract and particularly the 'confession' would seem to indicate.
 2. Descriptions of Stephen's early life are found in the article by Leslie Stephen in the D.N.B. (2nd edit., 1909), xviii, 1050; Leslie Stephen, The Life of Sir James Fitzjames Stephen, pp. 16-20, 31-33; and the biographical sketch by James Fitzjames Stephen in the introduction to James Stephen, Essays in Ecclesiastical Biography (London, 3rd edit., 1883), pp. xi-xvi.

Clapham Sect. He had established close contacts with William Wilberforce and his political followers whose views on the iniquities of the slave trade he fully shared. Partly through their help he had become an influential figure. He kept his knowledge of colonial affairs alive by his work in the Prize Appeals Court of the Privy Council and he provided the opponents of the slave trade with propaganda about slavery conditions gathered from his own experience in the West Indies. Frequently, he and his children attended the meetings of the group in Clapham and they participated fully in its social life.

Their Evangelical faith was the cement which bound the Clapham Sect together and it was this element in his domestic environment which first captured the younger James Stephen. Shortly before his eighteenth birthday he experienced a conversion which brought him within the fold¹ of his father's Evangelical circle. Nothing in his early life so clearly marked out his future development as the influences exerted upon him by the politically-active, crusading religious group which he then joined. Although he was sharply critical of Clapham's "spirit of coterie" which he found restricting, Stephen always looked on the members of the Sect as the giants of his age: no-one in his own generation could compare with them. Above all his father's close relationship with Wilberforce had the most profound influence on Stephen, for in the leader of the Sect he found the hero of his youth and his life-long idol. To emulate Wilberforce in his saintliness, in his business talents, in his personal integrity, in his concern for the children of Ham, in his

1. Stephen Diary, entry for 2 Jan. 1846.

humanitarianism, these were the ideals which he strove for and judged himself by for the rest of his life.¹

In 1806 Stephen was admitted as a pensioner to Trinity Hall, Cambridge, which was celebrated for its teaching in legal studies. The college had an additional attraction for a man following in his father's footsteps as it had then recently come under the influence of Evangelicals.² Stephen's career at Cambridge is nonetheless something of a mystery. He himself, in recalling his university days, was positively scathing about the standards which had prevailed early in the century. "The three or four years during which I lived on the banks of the Cam", he wrote in 1851, "were passed in a very pleasant, though not a very cheap, hotel. But if they had been passed at the Clarendon, in Bond Street, I do not think that the exchange would have deprived me of any aids for intellectual discipline, or for acquiring literary or scientific knowledge".³ This may explain why after his first year at Cambridge, when Stephen applied himself sufficiently to win, apparently without much

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1. For Stephen's own description of life at Clapham see James Stephen, Essays, pp. 523-584; for his views on Wilberforce, ibid., pp. 469-522.
 2. D.A. Winstanley, Early Victorian Cambridge (Cambridge, 1940), pp. 18-25. Stephen's uncle, William Farish, who was Jacksonian Professor at Cambridge, was also a leading Evangelical light as was Joseph Jowett, a Fellow and Tutor of Trinity Hall and Regius Professor of Civil Law. For a recent account of Evangelical activities in the early nineteenth century see Standish Meacham, Henry Thornton of Clapham, 1760-1815 (Cambridge, Mass., 1964).
 3. James Stephen, Lectures on the History of France (London, 1851), 1, pp. vii-viii.

effort, the first prize in his class, his interest in purely academic study seems to have waned.¹ It is also possible that he became obsessed by religious studies at this time, thereby diverting his attention from other work;² or perhaps keeping terms at Lincoln's Inn and aiding in the battle for the abolition of the slave trade took up most of his time.

Many of his retrospective criticisms, however, must be taken with a pinch of salt. Stephen found much to interest him in Cambridge. One attraction was the preaching of Charles Simeon, vicar of Holy Trinity and a very active Evangelical;³ another was the friendship of his cousin Thomas Edward Dicey, a fellow undergraduate and the son of the proprietor of the old Whig newspaper, the Northampton Mercury.⁴ Their influence on him is perceptible in his theological and in his political opinions but he was no unthinking disciple of either sect or party. During his Cambridge years Stephen's views became markedly independent. Though he remained

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1. Stephen to T.E. Dicey, 27 May 1807, Stephen Papers, journal of letters to various correspondents, 1807-1839.
 2. An entry for 10 July 1811 in H.C. Robinson's diary quoted in Leslie Stephen, The Life of Sir James Fitzjames Stephen, p. 33, suggests this, as does his choice of college. Robinson called Stephen a "pious sentimentalist and moralist".
 3. His admiration is evident in James Stephen, Essays, pp. 574-579.
 4. For Dicey see Frederic Boase, Modern English Biography (Truro, 1892), column 871; W.W. Hadley, The Bi-Centenary Record of the Northampton Mercury, 1720-1920 (Northampton, 1920), pp. 39-42.

faithful to his early religious creed, no-one saw more shrewdly or perceptively the faults and foibles of the Clapham Sect.¹ As early as 1807, when he was nineteen, he had already begun to question the value of sectarianism.² In 1808 his father had been brought into parliament by the government of Spencer Perceval to act as one of its defenders in the House of Commons; but at Cambridge James was breaking free from his father's political views and becoming increasingly critical of the elder Stephen's Tory allies.³

During much of his Cambridge undergraduate life, Stephen was resident in London and in attendance at Lincoln's Inn to which he was admitted in 1806. There he worked harder, spending eight hours a day at his studies.⁴ But his education was furthered as much by the company of his father's Evangelical friends as by more formal means since he took a keen interest in their activities. With the passing of the Slave Trade Abolition Act in 1807, the Sect had scored its greatest success but it had not been content to rest on its laurels. The act had to be made effective, the conditions of slaves ameliorated, and there were new ventures to which they might give their support such as

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1. Stephen, Essays, p. 536.
 2. Stephen to Dicey, 27 May 1807, Stephen Papers, journal of letters to various correspondents, 1807-1839.
 3. Stephen to Dicey, 1 Dec. 1809, Stephen Papers, journal of letters to various correspondents, 1807-1839.
 4. The work was apparently rather boring. Stephen to Dicey, 1 Dec. 1809, Stephen Papers, journal of letters to various correspondents, 1807-1839.

propagating the Gospel in British India where missionaries had been¹ forbidden to proselytize.

All these activities required a detailed legal knowledge since it was only through the strict enforcement of a reformed law that their objects could be met. Stephen, Senior, as an experienced lawyer, came to play a central role in the agitation for reform and James, Junior, along with his brother, Henry John, who practised before the Court of Chancery, followed him in his career. In 1811 James was admitted to the bar and in the same year his father was appointed Master in Chancery as a reward for political services. A year later, the younger Stephen received his LL.B. degree and joined the small family concern in the Court of Chancery. Although little is known of him in these years it seems likely that he fully participated in all the activities of his father's circle, professional, political and social. Whatever their individual differences, they were united in the cause of Clapham. In this the Stephen family resembles the other great Clapham figures, the Macaulays, the Grants and the Venns. Like them, too, the Stephen sons carried the campaign into new fields. As a lawyer, James Junior was both able and talented, possessing a clear, incisive mind and a quite remarkably retentive memory. He seems to have taken a special interest

1. The work of the Sect on Imperial problems is discussed in E.M. Howse, Saints in Politics (London, 1952) and more fully explored in A.F. Madden, 'The Attitude of the Evangelicals to the Empire and Imperial Problems (1820-1850)', University of Oxford, D.Phil. thesis, 1950. Stephen's discipleship is obvious from his account in Stephen, Essays, pp. 523-584, especially p. 543.

in foreign and colonial law, even going to the length of preparing a code on the latter.¹ This work brought him to the attention of Lord Bathurst, then secretary of state for the colonies, and in 1813, doubtless owing to his family connections and his father's parliamentary influence, he was appointed as legal counsel to the Colonial Department, a consultative fee-paid post which gave prestige to his private practice.² His administrative career had begun.

It was not the Colonial Department, however, but Westminster Hall which took up most of the time and attention of the younger Stephen in the years after his appointment. There he received the legal training which forms a most important element in his administrative education. As a barrister, though he may have been handicapped by his shyness, he was strikingly successful, and showed remarkable energy as well as talent.³ Initially, too, there was always time for more private business. In 1813 he was called upon to help his father in settling the affairs of his friend John Venn, the pastor of the Clapham circle, who died in the spring

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1. L. Stephen, James Fitzjames Stephen, p. 32. The interest in foreign and colonial law can be deduced from later legal opinions in Colonial Office records such as Stephen to Bathurst, Nov. 1813, C.O. 323/39, ff. 175-8, which also shows his comprehensive knowledge of West Indian slave legislation.
 2. D.M. Young, The Colonial Office in the Early Nineteenth Century (London, 1961), p. 58; Leslie Stephen, James Fitzjames Stephen, p. 32; J. Stephen, Snr., Speech at African Institution (London, 1817), pp. 35-6.
 3. This is clear from his income at the bar and the prospects which he felt were opening to him. Stephen to Wilmot, 21 Apr. 1823, C.O. 323/197, ff. 162-164.

of that year. Happier reasons took him back on subsequent occasions to the Venn household. In December 1814 Stephen married Jane Catherine Venn, the second daughter of the pastor. They were singularly well matched. The quiet, placid, devout Mrs. Stephen provided the understanding and sympathy which her more restless and emotional husband needed. Nothing emerges so clearly from their letters to each other¹ than the depth and intensity of their attachment. Without this domestic security it is doubtful if Stephen could have survived the² strain under which he was forced to work in later years.

His marriage strengthened his religious convictions and gave him a renewed interest in the cause of the Negroes. John Venn, a founder of a group later known as the Church Missionary Society, had been an active participant in the organization of British missionary ventures to Africa and Asia in the later eighteenth century. The Venns also played a³ prominent role in the running of the African Institution. Stephen joined the Church Missionary Society as a Committee member and in the

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- 1.. Stephen to J.C. Stephen, Stephen Papers, 3 vols. of copied letters. The early relations between the Stephens and the Venns may be traced in the collections of papers relating to John Venn made by Jane Catherine Venn which are among the Stephen Papers. See also, Michael Hennell, John Venn and the Clapham Sect (London, 1958), pp. 173-66.
 2. Leslie Stephen, James Fitzjames Stephen, pp. 33-41; for an independent judgement, Thomas Sadler (ed.), The Diary, Reminiscences and Correspondence of Henry Crabb Robinson (London, 3rd edit., 1872), vol. ii, p. 4, entry for 12 June 1825.
 3. Hennell, John Venn, pp. 215-251.

first few years after his marriage he supplied the missionaries with legal as well as financial assistance. He also found time to help his father with his parliamentary activities, no doubt aiding in the preparation of abolitionist schemes for the registration of slaves and providing moral support in the running battles with the representatives of the West India planters in the House of Commons.¹ Professionally, too, his work was becoming recognised. Perhaps partly through his work for a government department he acquired a number of clients of some social eminence.² By 1819 the demands for his services were outrunning the time which he had available and he was obliged to turn down even attractive cases.³

In 1822, after nearly eight years of marriage, Stephen's first child was born, a son, who was called Herbert Venn Stephen. At about the same time, for reasons that are rather obscure, he suffered a bout of depression which ultimately issued in physical collapse, the first of several such nervous illnesses in his life. For three months in 1823 he was too ill to appear in court and even the continuance of his work for the Colonial Department was in doubt. Forced to re-consider his

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1. He lists his daily occupations in Stephen to J.C. Stephen, 2 Jan., 5 Jan. and 12 June 1816, Stephen Papers, Journal of letters to J.C.S., 1816-1845.
 2. Stephen to J.C. Stephen, 29 July 1816, Stephen Papers, Journal of letters to J.C.S., 1816-1845.
 3. Stephen to J.C. Stephen, 13 Apr. 1819, Stephen Papers, journal of letters to J.C.S., 1816-1845.

future, he finally decided to seek full-time employment in the Department as its legal adviser and to sacrifice his previously highly promising legal career to considerations of security. Perhaps, as several writers have suggested, his new responsibilities as a family man (and, even more, the wish to protect his name from attack for the sake of his child) played a large part in his decision to seek security as a civil servant.¹ But equally important, though usually ignored, was the direction which his career as adviser to the Colonial Department had already taken.

(II) As Counsel, 1813-1825.

The Colonial Office to which Stephen was appointed in 1813 was a relatively new institution. Before 1801, apart from the short-lived secretaryship of state for America, colonial administration had never commanded the status of a separate department but was parcelled out amongst a variety of government offices. Of these only the Board of Trade provided for any length of time a reservoir of officials with experience and expertise in handling colonial affairs. In the reductions consequent on the loss of the American colonies the Board of Trade was abolished and its specialist advisers were lost to colonial administration. Though resurrected in 1786 as the Privy Council Committee for Trade and

1. Caroline E. Stephen, The First Sir James Stephen (Gloucester, 1907), pp. 13-14. Both Crabb Robinson and James Fitzjames Stephen maintain that Stephen was 'dissatisfied' by his work at the courts but, though this may be true, there is little evidence that he disliked his employment. In later years he frequently volunteered to return to his legal profession which suggests that he found it not too intolerable; Sadler, The Diary, vol. ii, p. 4, entry for 12 June 1825; Stephen, Essays, pp. xi-xii; Stephen to Auckland, 6 Oct. 1832, Stephen Papers, loose leaf notes.

Plantations, a body of some influence in settling colonial affairs until the end of the century, the Board never regained its pre-eminent¹ role in colonial administration.

General responsibility for the colonies was transferred in 1782 to the office of the home secretary, a rather unsatisfactory arrangement as the Home Office was already overworked. After the outbreak of the French Revolutionary war, pressure on the Home Office was partly relieved through the creation of a new secretaryship with special responsibility for the conduct of war. In 1801, with the signing of preliminary terms for the peace of Amiens which ended the first phase of the war with France, the War Secretary was required to relieve the Home Office of further² duties by assuming its share of colonial business.

For ten years the hybrid nature of the duties of the office of secretary of state for war and the colonies, as it became known, and the exigencies of the war in which Britain was engaged for much of the period, resulted in the steady neglect of colonial business. The new department had emerged with a minister of cabinet rank at its head presiding over

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1. C.M. Andrews, The Colonial Period of American History (New Haven, 1938), vol. iv, especially pp. 272-317; & Guide to the Materials for American History to 1793 in the Public Record Office of Great Britain (Washington, D.C., 1912), vol. i, especially pp. 78-112; D.J. Murray, The West Indies and the Development of Colonial Government (Oxford, 1965), pp. 1-10.
 2. H.T. Manning, British Colonial Government after the American Revolution, 1782-1820 (New Haven, 1933), pp. 75-99, 474-542; D.M. Young, The Colonial Office in the Early Nineteenth Century (London, 1961), pp. 8-12; D.J. Murray, The West Indies, pp. 10-12. See also R.B. Pugh, The Records of the Colonial and Dominions Offices (London, 1964), pp. 3-7.

one under-secretary who had a seat in parliament and a small clerical¹ establishment. It was too small to cope with the manifold problems of empire: the clerks were too ignorant of colonial matters since none of them had handled colonial correspondence before 1801 and the political head was too distracted by the conduct of the war to give much attention to colonies except as instruments in economic warfare.² Theory fitted the facts. Colonies, to a very large extent, were expected to manage themselves without interference from Britain.³

A change in the nature of the new office became evident in 1812. In that year Earl Bathurst was appointed secretary of state at the Colonial Office and Henry Goulburn was chosen as his parliamentary under-secretary. They speeded the change by strengthening the staff, resuming a regular correspondence with the governors and beginning the process of building up a body of information about the colonies, the vital prerequisite of efficient administration. Efficiency, in fact, became their watchword.⁴ Their work was a product in part of the changes which were taking place in the nature of imperial problems.

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1. As fixed by an order in council of 27 Feb. 1795: Young, The Colonial Office, p. 14.
 2. Young, The Colonial Office, pp. 12-14.
 3. Murray, The West Indies, pp. 13-31.
 4. See Goulburn's defence of the office in Parliamentary Debates, vol. xxxiii, clms. 899-901.

The number of colonies had grown considerably with war-time acquisitions, and a new form of government later known as crown colony government had been applied to them. This gave increased power and authority to the secretary of state, especially in the legislative field. More strikingly there had also arisen a concern, in parliament and in the country, for West Indian slavery, a problem which was recognised as coming within the purview of the new secretary of state. These developments so greatly influenced the work of the department, forcing it to become an authority on colonial questions, that in 1815, when the conclusion of peace terminated almost all of the secretary's military duties, the office survived as a separate administrative department with a general and recognised responsibility for the colonies.¹ The novelty and flexibility of the office in its early years provided the opportunity for an ambitious man to carve out a career for himself and helps to explain the influence which Stephen was subsequently able to exert.

Stephen's rise in the office was achieved by professional expertise, not by political connections. If he owed his appointment in the Colonial Department to his father's influence with the Earl of Liverpool's government, he had to maintain it without parental assistance. James Stephen, Senior, who held a government seat at East Grinstead, had acquired in parliament a reputation as an extremist abolitionist, as an authority on

1. Murray, The West Indies, pp. 110-111; Young, The Colonial Office, pp. 14-20; Manning, British Colonial Government, p. 483. It was not until 1854 that the C.O. was finally dissociated from all its war office duties.

colonial law and, when Spencer Perceval was prime minister, as an impassioned defender of the government's policies. His skill as a debater and his knowledge of the colonies were frequently used by the government and it was this support which was rewarded by the appointment of his son to a Colonial Office post and by his own elevation to the Mastership in Chancery in 1813. But two years later, after a disagreement over colonial policy, Stephen, Senior, resigned his seat and broke off his connections with the department. His son, much less involved in politics, retained his post despite the loss of his patron and continued to work with the government. Stephen, Senior,¹ meanwhile, carried on his anti-slavery agitation outside parliament.

Though their methods differed, father and son were not far apart in aims. If his subsequent statements can be trusted, Stephen, Junior, accepted the position of legal counsel in the hope that it would eventually prove politically influential. He wanted to make his opinions felt on the government's decisions in regard to slavery and the slave trade by working, in his administrative capacity, towards the achievement of slavery emancipation. The legal counselship, in some ways a unique, even an anachronistic, position in the past, might be made, in his view,² a useful instrument of agitation. This was the object he set himself

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1. Liverpool to Stephen, Snr., 22 Mar. 1815, B.M. Add MS. 38,416, ff. 362-3; Bevington, Memoirs, pp. 16-22; Manning, British Colonial Government, pp. 485-7, 503.
 2. Stephen to Taylor, 12 July 1833, and Stephen to T.F. Buxton, ? Apr. 1837, Stephen Papers, journal of letters to various correspondents, 1807-1839.

to achieve in his first years as an official of the Colonial Department.

Stephen's assessment of the potentialities of the counselship was remarkably acute. Although the fragmentation of responsibility for colonial administration did not end with the creation of the colonial secretaryship - indeed it remained as a major problem throughout the nineteenth century - colonial questions were generally settled within the existing government departments. The use made by the Colonial Office of a legal counsellor in the period up to 1825 was exceptional.¹ The counselship was not a full-time post and was not even on the establishment. In relation to the Colonial Office, the counsel was simply a consultant professional lawyer paid by fees to examine colonial legislation: he accepted the position as merely part of his work as a barrister. But with all these shortcomings, the counsel still possessed functions which were central to imperial administration and had a recognised and vital part to play in the work of the office.² In origin the counselship can be traced back to the earliest dealings between Britain and her colonies.

The first British Empire had been characterized by legislative

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1. Another exception was the use made of Major Thomas Moody, the Home Secretary for Foreign Parliamentary Commissioners: Murray, The West Indies, pp. 122-4; Young, The Colonial Office, pp. 71-4.
 2. For a recent survey of the counsel's role, D.B. Swinfen, 'Attitudes within the Colonial Office towards the imperial control of colonial legislation, 1826-65, with particular reference to the South Australia crisis, which led to the passing of the Colonial Laws Validity Act', University of Oxford, D.Phil. thesis, 1965.

decentralisation. All the colonies, though subject to the control of the imperial legislature of crown and parliament in London, possessed local governments with full legislative powers within their own spheres. Yet, in both theory and practice, the monarch as the ^wfont of all laws was required to assent to every legislative measure passed by colonial legislatures before it could become operative. In order to facilitate this procedure, governors were told in their instructions to send home copies of all the bills or ordinances of their local legislatures together with their comments on them. In London, the bills were submitted to the king in council which delegated the power to scrutinize them to the Lords of Trade and Plantations, a Privy Council committee known as the ¹Board of Trade.

The review of laws could impose a real check on the powers of the colonial legislatures. If found objectionable for any reason, the bills might be returned to the colony for changes while the royal assent was withheld or they might be expressly disallowed by order of the king in council. This power of review was unpopular in the colonies and the outbreak of the American Revolution further discredited it; but it was ²not surrendered. The imperial constitution, as enunciated for example in the Declaratory Act of 1766, reasserted constitutional control and expressly prohibited colonial legislation which conflicted with imperial statutes or which dealt with subjects of more than local concern. No

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1. Manning, British Colonial Government, pp. 76-81.
 2. O.M. Dickerson, American Colonial Government, 1696-1763 (Cleveland, Ohio, 1912), p. 227; J.C. Miller, Origins of the American Revolution (New York, 1943), pp. 31-9.

period of disillusionment with the empire after 1783 ever affected the
¹
 validity of this doctrine.

The position of counsel which Stephen in time inherited was created by the Home Office after it assumed responsibility for the colonies in 1782. The provision of a professional counsel was designed to replace the Board of Trade in reviewing colonial legislation. The subsequent resurrection of the Board and its appointment of its own full-time legal counsel in 1785, however, did not result in the discharge of the counsel to the Home Office. Perhaps departmental jealousies or the desire to retain the patronage gave rise to the anomaly. Whatever the explanation, the Board was immediately restored to its old duties in regard to law reviewing, so that the two offices for some time shared the responsibility: the Board made its decisions in the light of the recommendations of the colonial legal counsel but only after conducting its own independent
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 enquiries.

The fact that the counselship was given to someone as young and inexperienced as Stephen who had been in practice for only a year, reveals a loss in status which it had suffered before 1813. But from this low ebb it developed into a prototype of the statutory boards which are a major feature of nineteenth century administration. This has a significance for the early history of the Colonial Office which has been

1. Murray, The West Indies, pp. 1-2.

2. A.L. Lingelbach, 'The Inception of the British Board of Trade', in American Historical Review, vol. xxx, 1925, pp. 713-714.

largely overlooked. It shows that, at least in departments of low status, the officials by their personal expertise, as well as through the shortcomings of their superiors, might become the motivating force behind the administrative changes of the early nineteenth century. It also demonstrates the process by which a more positive approach to colonial administration could emerge.

The increasing importance of the counselship in the Colonial Office owed most to Stephen's search for influence and to his incredible powers of work. But circumstances combined to further his ambitions. In the French wars the colonies which were acquired had been formerly in the possession of other European countries and consequently were ruled under alien laws and traditions. The integration of these foreign legal systems into the imperial framework and the subsequent settlement of the individual constitutions were far too technical problems for statesmen to tackle and too intricate to be settled in detail by the law officers of the crown. Here was one opportunity for the counsel. Another stemmed from the increasing load of work which the Colonial Office was required to consume. The colonial governments, as they gained release from the trammels of wartime, embarked on a new phase of legislative development which severely strained the administrative resources of the Colonial Office.¹ At the same time as the opportunities for the counsel

1. In one year, from 1816 to 1817, the number of colonial acts which Stephen reviewed doubled: certificates by H. Goulburn for 18 Nov. 1817 and 8 July 1818, C.O. 323/40, ff. 120-1, 152. For the changing policies, see V.T. Harlow, 'The New Imperial System, 1783-1815', C.H.B.E., vol. ii, pp. 153-187.

to find work increased, any fear of competition from the Board of Trade decreased since all its attention was needed for the codification of commercial and fiscal regulations which was undertaken shortly after the close of the war.¹ As early as 1816 the Board relinquished its right to draw up orders in council for the colonies and it was the counsel who inherited the task.² Even without Stephen the colonial counselship would have become a more influential post after 1815. Because of him it changed out of recognition.

Stephen's contribution to the development of the legal counselship can best be gauged by comparing his work with that of his predecessor, William Baldwin. Officially the counsel was required by the secretary of state to give his "opinion in point of law" on colonial bills sent to his chambers from the Colonial Office. For each act examined and reported on, a fee of three guineas was paid with a deduction of one twelfth to pay for the messenger employed to carry the documents and the replies to and from the counsel's chambers.³ "Opinion in point of law" was a rather vague criterion. Baldwin must have felt it allowed him little scope for his reports very seldom offered any objections to colonial legislation.⁴ Where he did object, it was rather to the

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1. Lingelbach, A.H.R., xxx, 1925, pp. 701-727, and her article, 'William Huskisson at the Board of Trade', A.H.R., xliii, 1938, pp. 759-774.
 2. Stephen to J.C. Stephen, 10 July 1816, Stephen Papers, journal of letters to J.C.S., 1816-1845..
 3. The system is described in Stephen to Horton, 21 Apr. 1823, C.O. 323/197, f. 162.
 4. Counsels' reports since 1801 are in the C.O. 323/ series.

"informality and irregularity" in framing the acts than to any particular provision in them.¹ Many species of laws which Stephen was later to pronounce objectionable were entirely overlooked.²

Baldwin seems to have regarded the counselship not as an authority representing the Colonial Office, as Stephen did later, but as an agency which provided technical assistance to the government in reviewing colonial legislation. If he felt some provisions in the bills were questionable, Baldwin contented himself with drawing them to the particular attention of the political officials.³ His only unequivocal objection was to the repeal of British statutes by colonial legislatures.⁴ The Board of Trade in Baldwin's period had become equally complacent. Its concern with fiscal and commercial questions had led to the neglect of its imperial responsibilities long before the close of the Napoleonic war. Even on imperial economic regulations, once one of the pillars of the Board's authority, colonial acts contrary to British statutes were allowed to pass its review unnoticed.⁵ The general neglect of colonial

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1. Baldwin's report, 23 Nov. 1810, C.O. 323/39, ff. 42-3.
 2. For example, those relating to transient trading: Baldwin's report, 7 Sept. 1811, C.O. 323/39, f. 69.
 3. Baldwin's report, 28 Sept. 1811, C.O. 323/39, ff. 71-3.
 4. Baldwin's report, 16 Mar. 1813, C.O. 323/39, ff. 137-8.
 5. For example, on monopolies: Stephen to Bathurst, 8 July 1814, C.O. 323/40, ff. 8-13.

business in the early years of the nineteenth century is, in fact, nowhere better typified than in regard to colonial legislation.

It was Stephen who restored law-reviewing to its place as a major feature of colonial administration. His contribution parallels the work done by Bathurst and Goulburn in other areas. He showed a willingness to question colonial legislation and to use the powers confided in the crown and its representatives. His reports, unlike Baldwin's, were not restricted to technical criticisms but embraced the entire field of legislative administration so that the Board of Trade's secondary review¹ became quite otiose.

Not surprisingly in view of his interests, Stephen's work expanded the meaning of an opinion "in point of law". Instead of restricting himself to comments on the competence of the colonial legislatures to pass the laws, he sought to examine the political consequences of colonial laws and then to judge them by the standard of political 'convenience' as well as equity. To test a bill, its conformity with government policy, consistency with the governors' commissions and instructions and the likelihood of its achieving what it intended to do, were all regularly examined even though this often required that Stephen himself interpret what the policy was or what the colonial societies desired to do. The

1.. Paul Knaplund, James Stephen and the British Colonial System (Madison, 1956) gives an idea of the variety of material which can be found in the series on which it is based - C.O. 323/39 to 63. Any volume of his reports would serve to illustrate the range of Stephen's work, even the earliest where he examines "the general scope and tendency" as well as the terms of the laws reviewed. On occasion, he would peremptorily state that a colonial legislature had "exceeded the bounds of their authority". See, for example, Stephen's reports to Bathurst, 12 Oct. to 31 Dec. 1813, C.O. 323/39. ff. 167-86.

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reviews clearly became increasingly political.

Stephen's reports were not only more political but also infinitely more searching, more detailed and more alive to the responsibilities involved. Doubtless his own wish to influence made him try to see that the government enforced its powers on subjects where his opinion was required. But he was more than a mere propagandist. He professed a concept of public service, more characteristic of the attitude of imperial civil servants later in the century than in his day, as a high ennobling calling in the service of one's fellow men.² To this he united a truly remarkable, unsparing dedication to his work - a wish, as he saw it, to utilise fully the opportunity and the gifts which God had given him. His energy and capacity matched this devotion and amazed all who knew him.³ He was prepared, from the start, to take infinite pains over his work even to the extent of undertaking elaborate researches.⁴

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1. This too is true even of his earliest reports. See, for example, Stephen to Bathurst, Nov. 1813, C.O. 323/39, ff. 175-8.
 2. Stephen to Taylor, 12 July 1833, Stephen papers, journal of letters to various correspondents, 1807-1839.
 3. Many examples could be cited. Among the most revealing are Horton's and Stanley's: Horton's speech, 3 Mar. 1826, in Parliamentary Debates, n.s., xiv, 1080; Stanley to Stephen, 1 Apr. 1833, Stephen Papers, separate letters. See also C.E. Stephen, Sir James Stephen, pp. 4-5.
 4. In 1813, for example, he postponed the consideration of certain laws until he had made detailed enquiries about them. Stephen's report, 31 Dec. 1813, C.O. 323/39, ff. 181-6.

These qualities, reflected in his reports to the under-secretary and the secretary of state, rather than demands for the indiscriminate wielding of the imperial veto, as his enemies claimed, gave Stephen the influence he sought and early obtained over colonial policy. Nonetheless, he had to guard himself against his critics' charges. His reports, much more than those of his predecessors, were designed with the ultimate responsibility of the secretary of state in view. They sought to clarify the technicalities involved in the laws, to examine their contents in a manner intelligible to the layman and, where necessary, to make suggestions for improvements. The cooperation of his political superiors or at least their consent was actively sought to bolster his opinion. This was especially true in cases where Stephen could offer no legal objections but instead used his report to expose questionable political actions on the part of colonial legislatures taken under the guise of acts or ordinances.¹ Once he had presented his case, he left the ultimate decision to the secretary of state, clearly indicating that he was doing so intentionally.² In this way he made what had formerly been merely a technical process of review into part and parcel of the business of administration. The subject of legislation became one of the routine matters of correspondence between Britain and the colonies.

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1. As in Stephen to Bathurst, 10 Dec. 1816; & Stephen to Bathurst, 6 Oct. 1817, C.O. 323/40, ff. 216, 142-51.
 2. As in Stephen to Bathurst, 17 Mar. 1817, C.O. 323/40, ff. 154-60.

Both Bathurst and Goulburn came to rely heavily on the opinion of their counsel. On colonial legislation not infrequently, even in his early days in office, his suggestions for amendments or for further supporting legislation were incorporated, word for word, into despatches from the Colonial Office to the colonies.¹ It is quite clear that Stephen's work as an administrator was imperceptibly bringing about the abandonment of long-pursued policies of 'salutary neglect' and helping to create a more dynamic and professional approach towards the supervision of colonial legislation.

By 1817, Stephen's growing authority and his value to his superiors had become a matter for comment in parliament. From his first days in office Stephen had inherited the obloquy which, through his father's notoriously extremist views, attached itself to all his family. To this inheritance, Stephen had added a personal reputation as a "more than suspected" member of the anti-slavery group.² The West Indian group in parliament and other interested parties turned their invective and scorn on to him. He was regarded as the instrument in office of the humanitarians who supported the abolition of the slave trade and the amelioration of slavery.³ It was even said that his counselship was a sinecure,

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1. Stephen to Bathurst, 6 Oct. 1817, C.O. 323/40, f. 216, illustrates how easily they could be adapted.
 2. Stephen to E. Venn, 16 Aug. 1827, Stephen Papers, journal of letters to various correspondents, 1807-1839.
 3. Joseph Marryatt, M.P., of the West India group, was the leader of this agitation. His arguments are presented in Joseph Marryatt, More Thoughts Still on the State of the West India Colonies (London, 1818), pp. 51-3.

designed only to give the abolitionists official access to government
¹ records. The attacks were so vitriolic and insistent that in May 1817
 Goulburn felt impelled to counter the abuse by bearing testimony in the
 House of Commons to Stephen's impartiality and to the quality and value
² of his work.

His enemies were right to charge him as being a supporter of the
 Saints, but were wrong to believe he used his knowledge of the Colonial
 Office to provide the humanitarians with ammunition. Perhaps because
 of his training as a lawyer Stephen invariably maintained the brittle
³ tradition of official secrecy. This was quite unusual in his day. (476)
 Stephen's father, for example, held no official position but had been in
 the confidence of ministers and had been admitted to examine colonial
³ records. Presumably this was why Goulburn, in introducing Stephen to
 the department, felt it necessary to point out that certain official
⁴ information could not be divulged to private societies. If so it
 suggests a failure on Goulburn's part to appreciate the full potentialities
 of the counselship and an unfounded suspicion of Stephen's motives in

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1. Joseph Marryatt, M.P., An Examination of the Report of the Berrice Commissioners ... (London, 1817), pp. 73-6.
 2. Stephen to Goulburn, 20 May 1817, C.O. 323/40, ff. 173-4.
 3. Office memorandum, C.O. 323/182, f. 29; Manning, British Colonial Government, pp. 485-7.
 - 4.. Stephen to Goulburn, 7 Apr. 1813 & 11 June 1813, C.O. 137/138.

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 accepting the post. Stephen's influence came purely from the quality
 and scope of his work. He treated his material as confidential and
 after his appointment even his father was compelled to seek permission
 to examine colonial legislation through the regular official channels. 2

Before 1821, extensive and varied as his services became, Stephen
 was still only an occasional official. He valued Goulburn's testimony
 of support not so much because it signified confidence in his official
 work but because it prevented him from losing clients through the slanders
 of the West Indian group. 3
 Colonial work was a diverting and fairly
 lucrative sideline. 4
 Even the prestige of his official employment was
 appreciated as much because it contributed to his professional standing
 as because it was gratifying in itself. 5
 But there is no doubt that
 Stephen increasingly considered his official duties as more important
 than his private practice, at least after the assurances that his opinions

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1. Young, The Colonial Office, p. 58. Official secrecy, of course, helped to protect him from his enemies' accusations.
 2. George Stephen, A Memoir of the Late James Stephen ... (Brighton, Victoria, 1875), pp. 37-8.
 3. Stephen to Goulburn, 20 May 1817, C.O. 323/40, ff. 174-5.
 4. Stephen to J.C. Stephen, June 1816, 8 July 1816, & 10 July 1816, Stephen Papers, journal of letters to J.C.S., 1816-1845.
 5. Stephen to Goulburn, 6 Aug. 1817, C.O. 323/187, f. 510.

were valued in the office. So great was the time and attention which he was willing to bestow on his government services, in fact, that by¹ 1820 he had given up a considerable amount of private business.

The change in his position from an occasional official to a subordinate administrator with a special departmental responsibility for legal questions was completed after R.J. Wilmot Horton became parliamentary under-secretary in 1821. Under Goulburn Stephen had expressed a willingness to undertake gratuitously duties in addition to reviewing colonial² laws. Partly as a result, he had worked after 1815 on subjects outside his official duties such as the formulation of constitutions of conquered colonies. He had also drawn up draft orders in council and examined³ court rules for the under-secretary. These services Goulburn treated⁴ as exceptional and sparingly used his offer of extra assistance. Under Wilmot Horton the exceptional services became regular and an entirely new range of duties were assigned to the counsel.

Wilmot Horton's first task as under-secretary was to complete the work of reform and reorganization in the Colonial Office which Goulburn

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1. Stephen to Goulburn, 20 July 1820, C.O. 323/192, f. 135.
 2. Stephen to Goulburn, 18 Nov. 1817, C.O. 323/187, f. 528.
 3. Stephen to Horton, 21 Apr. 1823, C.O. 323/197, f. 162; Stephen to Goulburn, 6 Aug. 1817, C.O. 323/187, f. 510.
 4. This is clear from his pay certificates: office memoranda, 17 Nov. 1817, C.O. 323/40, ff. 120-1.

had set in train. Horton was a clever and capable administrator whose reputation in the history of the Office stands high. He reformed the personnel of his department by forcing the old and incapable clerks to retire, and he showed himself a shrewd judge of ability in his selection of the new younger group who replaced them. It was Horton who introduced into the office almost all the leading clerks of the second quarter of the 19th century including Henry Taylor, the celebrated head of the West India department, poet, playwright and political philosopher, and Stephen's close friend. Horton also got the best from his staff. To an extent almost unknown previously, he allowed senior clerks to share in the routine and the business of administration instead of confining them to the work of copyists.¹

Horton's judgement of candidates for office was matched by his assessment of the talent available in the office. Of this, Stephen is the best example. He was attracted by Horton's friendliness and energy and the confidence was reciprocated. Horton was willing to be guided by Stephen's professional opinion and experience. In a letter to a friend in 1827, Stephen flippantly but acutely described their respective roles in administration. "He imparts motion to me", he wrote, "and I keep him moving in the right line".² Their relations were not always so smooth

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1. Young, The Colonial Office, pp. 48-58; Murray, The West Indies, pp. 119-126; D.N.B., ix, p. 1284. For a fuller biography of Horton, see E.G. Jones, 'Sir R.J. Wilmot Horton, Bart, Politician & Pamphleteer' University of Bristol, M.A. thesis, 1936. His surname was Wilmot until May 1823 when he added Horton by royal licence: Young, The Colonial Office, p. 49. Horton is used consistently here to avoid confusion.
 2. Stephen to E. Venn, 16 Aug. 1827, Stephen Papers, journal of letters to various correspondents, 1807-1839.

but while it lasted the mutual confidence was productive of a vastly increased range of duties and responsibilities for Stephen.

In addition to legislation, all colonial legal questions, such as disputes or appeals on different cases, technical difficulties in prosecuting questionable verdicts in colonial courts, competing jurisdictions and the interpretation of British legal statutes, were regularly referred to the counsel for his opinion. Only if he felt it impossible for the secretary of state to deal with them without the aid of higher legal authority were they then sent to the law officers of the crown.¹ Stephen was also required to aid in the initiation of legal measures. Drafts of orders in council and parliamentary bills and instructions to governors on various topics, formerly extra services specially remunerated, became part of his normal services. He was even required to attend for personal consultations with the under-secretary in the Colonial Office and to consult with local experts on the business that he undertook.²

These new services imposed a heavy burden on Stephen's time and energy as he explained to Horton in 1823:

"In effect my employments have comprized not only the functions of a Counsel, but many also of those which belong to the solicitors of the different Boards in other departments of government. Like them I have brought the questions laid before me into such a shape and compass as to enable Lord Bathurst to obtain the opinions of the Attorney and Solicitor General upon any important points, without imposing on them the necessity of perusing a mass of voluminous and partly irrelevant documents".³

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1. There are indexes of his extra reports for 1823 and 1824 in C.O. 323/42, ff. 7-8.
 2. As examples, Horton to Stephen, 26 June 1833, C.O. 324/144, p. 166; Stephen to Horton, 21 Apr. 1823, C.O. 323/197, f. 162.
 3. Stephen to Horton, 21 Apr. 1823, C.O. 323/197, ff. 162-164.

This, with all his other services, was too much for one man to perform.

He appealed to the under-secretary when his health began to break under the strain in April 1823. A few months earlier he had become a father with new responsibilities to consider. Reluctantly, he realized that he would have to choose ultimately between his two occupations: but the choice was never in doubt. Horton, who well knew what the department owed to Stephen, was sympathetic and respectful. He arranged for his counsel to obtain what he requested, a promise of permanent employment in the Colonial Office in a position on the same footing as a clerk and at a salary of £1,000 per annum. In return, he was to undertake to make the service of the Colonial Department his first¹ duty; what free time he had left could be devoted to his practice.

Although it guaranteed him an income and an official career, the change in Stephen's status in 1823 was mainly formal. He had already become de facto legal adviser to the secretary of state. Horton arranged to have him so considered and so paid; but the arrangement was merely provisional. Though given an assurance of permanent tenure from the Prime Minister, Stephen was not yet a member of the establishment. He was vulnerable in that he neither possessed the legal security of tenure nor the rights to a retirement pension which clerks in the office possessed.

1. Harrison (Treasury) to Horton, 4 Nov. 1823, C.O. 323/197, f. 246. It does Stephen less than credit to say, as Dr. Murray does, that he was employed "as an expert in West Indian law" (Murray, The West Indies, p. 121). His duties were broader than this and important as much for their general administrative skill as for their legal content. Murray is right, however, to stress that in legal matters Stephen was indispensable.

He remained simply a fee-paid counsel whose extra services were remunerated out of the contingency funds by a sum equal to £1,000¹ minus his earnings from law reviewing. The significance of the arrangement concluded in 1823 was that it showed Stephen's eagerness to adopt a future career in government service. Although he still² derived over half his income from his work at the courts, he had practically agreed to sacrifice that salary if, as seemed likely, his official duties continued to expand.

In 1823 and 1824 there was a drop in the number of acts to be reviewed, but the new services, most of which had, according to Stephen, "but a faint and fictitious relation to his profession as a lawyer",³ were much more numerous and obviously much more time-consuming.⁴ He must have had to give up part of his remaining private practice and he knew that in the legal profession the neglect of a client is liable to

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1. This is clear from Stephen's applications for salary: Stephen to Horton, 28 Feb. 1824, C.O. 323/198, f. 366, and from the order in council, 2 Feb. 1825, C.O. 878/1, f. 91.
 2. Memorandum by James Stephen for Sir George Murray, 16 Feb. 1830, Murray Papers, N.L.S., vol. 171, f. 55. There is, however, some confusion on this point. The figures given in the document are repeated in Stephen to Auckland, 6 Oct. 1832, Stephen Papers, loose leaf letters, on which Leslie Stephen seems to have relied for his account in L. Stephen, James Fitzjames Stephen, p. 32. But whereas in the former Stephen implies that his income of £2,700 applied to the year 1824-5, in the latter he says explicitly that it was for 1822. Most probably, the recorded figure of £2,700 applied to 1824-5 and he simply deduced that his earnings "exceeded" that amount in 1822.
 3. Stephen to Howick, 10 Feb. 1832, Grey Papers, Stephen correspondence.
 4. The indexes and accounts are in C.O. 323/42, ff. 1-18; C.O. 323/197, ff. 157-189; C.O. 323/198, pp. 361-405; C.O. 324/145, pp. 2, 18, 30, 36-8.

risk the entire practice.¹ Fortunately for him, an attempt was being made at this time to provide assistance for the over-worked under-secretary through the creation of a new senior administrative post. Horton, whose scheme it was, failed initially to win permission from the Treasury for the creation of a second under-secretaryship but, as a substitute, he used such funds as were available to create a new position for Stephen on the establishment of permanent colonial counsel, at a salary of £1,500 per annum.² This provided the Office with the full-time services of a professional lawyer and a well-proved, assiduous, administrative talent. The appointment meant a considerable financial sacrifice for Stephen since he was required to give up his private practice entirely.³ But it provided him with the security of tenure which he had sought and ensured the continuance of his influence in colonial administration.

In later years, when under attack, Stephen consistently maintained that he was not responsible for the creation of the permanent counselship.⁴ There is no reason to doubt that the actual arrangements, the preparation

1.. Stephen to Horton, 21 Apr. 1823, C.O. 323/197, ff. 163-164.

2. The detailed manoeuvres can be followed in Young, The Colonial Office, pp. 77-80.

3. Stephen to Auckland, 6 Oct. 1832, Stephen Papers, loose leaf letters.

4. For example, in his memorandum to Murray, 16 Feb. 1830, N.L.S., vol. 171, f. 55.

of the relevant order in council, the settlement of the salary and the determination of the conditions of employment, were made without directly consulting him. It would be equally unreasonable to maintain that Stephen was not the moving force behind the change. Doubtless the Colonial Office would have discovered at some time the necessity for a specialist legal officer within the department to deal promptly with this highly technical branch of administration. Yet it was Stephen's skill and industry which had first brought a consultative legal office into colonial government and it was his ability and knowledge of subjects outside the normal business of Westminster Hall which convinced Horton and his colleagues that they needed him on the establishment in 1825.¹

(III) From Counsel to Under-Secretary, 1825-1836.

The institution of a departmental legal officer, a development of lasting significance for the office, probably made little difference to Stephen's work in the office. He continued to act as legal counsel and confidential adviser to the under-secretary and secretary of state. By 1832, he had actually forgotten when the change occurred and confused the arrangement of 1823 with the formalities two years later.² This is not

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1. In the draft order in council Bathurst mentioned "the continual requisitions for his attendance at the office": Bathurst to Lord President, 31 Jan. 1825, C.O. 324/145, pp. 75-76. The order in council is dated 2 Feb. 1825, C.O. 878/1, f. 91.
 2. Stephen to Auckland, 6 Oct. 1832, Stephen Papers, loose leaf letters.

surprising. His ambitions were certainly not bounded by the counselship, and his promotion in 1825 was almost immediately overshadowed by his loss of status when passed over in the choice of a permanent under-secretary.

The decision to create a second or additional under-secretary¹ was part of a general scheme of office reorganization undertaken in the course of 1824 and 1825 of which Stephen's appointment as permanent counsel forms a part. The second under-secretaryship had been postponed and² implemented last because of the increased expenditure involved. In the interval Stephen's promotion created an office which, unlike the clerical positions, was in scope commensurate with the whole empire and involved him in constant attendance on the political heads. His functions were not precisely defined, but it was clear that they did not stop short of services in the despatch writing line.³ He was, in fact, in the position of an assistant under-secretary or, as Crabbe Robinson, the diarist, put it at the time, "a sort of additional Under-Secretary of State".⁴

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1. The term 'permanent' under-secretary was not used in 1825.
 2. For the provisions, see order in council 2 Feb. 1825, order in council 5 July 1825, and order in council 2 Aug. 1825, C.O. 878/1, ff. 87-8, 93, and 95-6. The developments are outlined in Young, The Colonial Office, pp. 77-81.
 3. Stephen to E. Venn, 16 Aug. 1827, Stephen Papers, journal of letters to various correspondents, 1807-1839.
 4. H.C. Robinson, Diary, entry for 12 June, 1825, Sadler, ii, p.296.

This was also the government's view for, on the subsequent appointment of a second under-secretary, it was assumed that Stephen's duties would be lightened.¹

Why then was Stephen, surely the obvious choice, not appointed as additional under-secretary in 1825? Although there is little evidence to show on what grounds he was rejected, there are several substantial reasons why he might have been. Administrative offices, particularly well-paid ones, were always allotted on the grounds of patronage until after the mid-century. The appointment to an office worth £2,000 a year was important enough to warrant the attention of the Prime Minister. Stephen, as he himself admitted, lacked the wealth, influence and aristocratic connections which would have given him a powerful claim.²

Equally important was the fact that the under-secretaryship was conceived as part of an expanding official pattern. The Wilmot Horton reforms in the Colonial Office were aimed at increasing the numbers of senior members in the office staff. During 1824 and 1825 two members were added to the senior rank of clerks and a registrarship created as well as the counselship. The funds for these appointments were only very reluctantly conceded since retrenchment in civil administration was

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1. Memo by Stephen for Murray, 16 Feb. 1830, Murray Papers, N.L.S., vol. 171, ff. 54-57. But the assumption may initially have been Stephen's: Stephen to Auckland, 6 Oct. 1832, Stephen Papers, loose leaf letters.
 2. Stephen to E. Venn, 16 Aug. 1827, Stephen Papers, journal of letters to various correspondents, 1807-1839.

a first principle of governments in the early nineteenth century. The under-secretaryship was the hardest won victory of all and was followed immediately by the loss of one of the senior clerkships.¹ Had Stephen been selected, the Treasury and the House of Commons would very probably have insisted upon the amalgamation of the offices of counsel and under-secretary. Instead of adding one extra senior official, the appointment would merely have involved a small salary increment for Stephen.

As the decision was ultimately political, however, the decisive factor was unquestionably Stephen's family name. Not for the last time, his career was handicapped by those who insisted upon associating him with his father's extremist views. When his appointment as permanent counsel was announced in parliament, it was greeted by a typical burst of invective from the humanitarian, Joseph Hume, the spokesman on this occasion for the West India interest. He declared that;

"Nothing could be more objectionable to the colonies than such an appointment. He [Stephen] was the son of the person whom the colonists supposed to be their greatest enemy; and to put him in an office in which every communication to and from the colonies must pass through his hands, was highly objectionable".²

Though shrewdly guessing that Stephen's work was more than simply forensic, Hume, of course, had considerably exaggerated his role. Nonetheless if Hume's view prevailed, Stephen could certainly not hope for further promotion.

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1. Order in council, 2 Aug. 1825, C.O. 878/1, ff. 95-6; Young, The Colonial Office, pp. 77-9.
 2. Parliamentary Debates, n.s., vol. xiv, clm. 1081, 3 Mar. 1826.

The new under-secretaryship went to Robert William Hay, a man of safe conservative views, good aristocratic and political connections and a self-proclaimed supporter of the Liverpool government. The choice was obviously political.¹ This was an interesting precedent, revealing in its reflection the contemporary attitude to civil service appointments. No attempt was made to disguise the political bias in the selection of an official who would not have to resign with his political superiors even though his office might involve him in every detail of the department's administrative policies. The partisan method of selection was a significant and bitter lesson not lost on Stephen who thereafter fully appreciated the importance of political support in his struggle for promotion.

Shortly after Hay's appointment Stephen agreed to act as counsel to the Board of Trade, without increase in salary, in addition to his other services. He believed that his parliamentary enemies might maintain that the creation of a second under-secretary would leave him idle. To forestall their criticisms, he fell in with a plan originating with William Huskisson, then President of the Board of Trade, to get his assistance in the legal business of that office. In 1823, the Board had been deprived altogether of the official services of a legal counsel.²

1. Young, The Colonial Office, pp. 85-8.

2. A.L. Lingelbach, 'William Huskisson at the Board of Trade', A.H.R. xliii, 1938, p. 7.

Since then Stephen apparently had been gratuitously performing legal services for Huskisson and his colleagues. Retrenchment pressed as heavily on the Board as on the Colonial Office and, as the Board's chief clerkship fell under the axe in 1825, Huskisson must have been¹ relieved to obtain Stephen's valuable services officially.

The new scheme was the cause of yet another anomalous arrangement aimed at preserving the meagre establishment funds. The Board agreed to pay out of its finances one third, £500, of Stephen's salary plus² contingent expenses, the rest of it being borne by the Colonial Office. Despite this formality, it seems to have been assumed on both sides that his work for the Board would be only in the nature of occasional services such as he had performed for the Colonial Office before 1821. His first³ duty was still with colonial legal affairs.

The association with the Board proved, nevertheless, most valuable for Stephen. To serve with and be favoured by a man of Huskisson's talent and reputation as an administrator was a strong recommendation⁴ for an official. The association also brought Stephen into contact

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1. Stephen to Auckland, 6 Oct. 1832, Stephen Papers, loose leaf letters; minutes of 30 July 1825, B.T. 5/34, pp. 67-70; & B.T. 6/282, Council.
 2. Order in council, 2 Aug. 1825, C.O. 878/1, ff. 95-6; minutes of 30 July 1825, B.T. 5/34, pp. 69-70.
 3. Such, at any rate, was Stephen's opinion, and the relative scale of remunerations would seem to confirm it: order in council, 5 July 1825, C.O. 878/1, f. 93; Stephen to Auckland, 6 Oct. 1832, Stephen Papers, loose leaf letters.
 4. C.R. Fay, Huskisson and His Age (London, 1951), pp. 35-138 outlines Huskisson's contribution.

with an old Claphamite acquaintance, Charles Grant, then vice president of the Board and, like Huskisson, a future colonial secretary of state. Both of his superiors were very sympathetic to Stephen's views and impressed by his work on colonial laws, especially those relating to slave colonies. Frequently, they brought his opinions to the particular¹ attention of the colonial secretary of state. In practice, his services at the Board were more than occasional. They included reporting on colonial and foreign commercial laws, preparing and reviewing legal cases and drafting legal documents. Much of this work had little or nothing to do with colonial affairs.² While Huskisson was president. Stephen's services were in frequent use and they did not substantially diminish until James Deacon Hume was appointed secretary to the Board of Trade in 1828.³ To keep up with this work and his regular duties at the Colonial Office, he must have performed herculean tasks daily.

Despite expectations, Stephen's work at the Colonial Office did not slacken as a result of Hay's appointment: indeed his purely legal duties, the basis of his authority, considerably increased. Gradually he was gaining the experience and sharpening the expertise which was to make him

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1. See, for example, minutes 9 Aug. 1825, minutes 29 Aug. 1825, minutes 16 Sept. 1825, and minutes 6 Jan. 1826, B.T. 5/34, pp. 93, 119, 141-2, & 295.
 2. E.g. minutes 12 Aug. 1825, minutes 29 Aug. 1825, minutes 16 Sept. 1825, minutes 6 Jan. 1826, B.T. 5/34, pp. 102, 119, 141-2, & 295.
 3. Stephen to Auckland, 6 Oct. 1832, Stephen Papers, loose leaf letters.

an indispensable member of the office. Colonial legislatures continued to utilise their powers frequently and legal disputes were inevitably recurrent in an empire composed of such varied and numerous legislatures.¹ The amount of work which he was forced to undertake was truly prodigious. As the crown lawyers were overworked and refused to attend to the complicated legal business of the Colonial Office, he alone was able to provide the professional advice required.² His contribution was greater in variety as well as in amount, covering almost every aspect of administration, political as well as forensic. Many colonial despatches were referred to him by his superiors and his comments and opinions on them were almost invariably turned into despatches nominally from the secretary of state, well spiced with advice to the governors concerned.³

Stephen's abilities, experience and professional authority could in themselves account for the major role he played in the work of the Office; but there was another factor. R.W. Hay did not realize the full potentialities of his office and, partly as a result, did not assume a large part of Stephen's work. Though he was hard-working and serious-minded,

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1. Some of the difficulties are outlined by Young, The Colonial Office, p. 100.
 2. Stephen's reports, being no longer separately remunerated, enter the general colonial series of correspondence after 1825. But there is a list of his work in Stephen's supplementary memorandum for Sir George Murray, n.d., N.L.S., vol. 171, ff. 58-60. See also Stephen to Horton, 13 Oct. 1825, C.O. 323/202, ff. 195-6.
 3. For Stephen's legal opinions, C.O. 323/205, 207, 208, 211, 212, 213, 217, 218 under 'Stephen' and C.O. 323/43-50, passim. For an example which shows the extent of this work see Stephen to Horton, 5 May 1827, C.O. 323/44, ff. 107-55.

Hay probably lacked both the capacity and the aptitude, and also the experience, which Stephen's work demanded. His failure to appreciate the significance of his new post ultimately had even more serious¹ consequences.

The position of 'permanent' under-secretary was relatively new² in 1825 and had not attained the significance which it now bears. Dr. D. M. Young, in his study of the early years of the Colonial Office, traces back the origin of the modern permanent under-secretaryship to the appointments of additional under-secretaries in the Home Office and Foreign Office shortly after the close of the Napoleonic war. Their function was "to provide an incoming secretary of state with information and initiate the political under-secretaries into the habits of official business".³ There was nothing new, of course, in using non-parliamentarians or officials in leading administrative posts, nor was there anything unique in an under-secretary outlasting the secretary who appointed him and serving his successor - that occurred in the Colonial Office in the 1820s even with parliamentary under-secretaries like Wilmot

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- 1.. For Hay, Young, The Colonial Office, pp. 85-9; Murray, The West Indies, pp. 147-8. Hay subsequently gave a full statement of his views on the permanent under-secretary's role: Hay's memorandum, 2 Apr. 1832, C.O. 537/22, ff. 17-18.
 2. For a recent discussion of the subject, see Henry Parris, 'The Origins of the Permanent Civil Service, 1780-1830', Public Administration, xlv, 1968, pp. 143-66.
 3. Young, The Colonial Office, p. 47.

¹
Horton. But in the first three decades of the nineteenth century two developments of vital importance in the history of civil administration had taken place which affected the under-secretary's role.

The first was that the political heads of the Colonial Office were being forced increasingly to devolve major duties onto their permanent staff.² The second was that the idea of administration by 'King's Friends', by officials who served the King under any minister not peculiarly unpopular, was giving way to a new concept of ministerial responsibility in which the political head strictly controlled the personnel of his office and was held accountable for what they did.³ Neither development was complete by 1830 but they were clearly foreshadowed and they made the relationship between the under-secretary and secretary of state crucial. There was a danger that an under-secretary might take a decision in the name of a secretary of state on a problem of a political nature when the former was neither appointed by nor in agreement with the latter. To offset this danger it was vital to establish a demarcation of duties and responsibilities between political

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1. For 18th century cases, see the essay by A.F. McC. Madden, 'The Imperial Machinery of the Younger Pitt' in H.R. Trevor-Roper (ed.), Essays in British History Presented to Sir Keith Feiling (London, 1964), pp. 173-193.
 - 2.. This is one of the main conclusions of Dr. Young's book. The argument is summarised in Young, The Colonial Office, pp. 1-6.
 3. This is one of the main conclusions of Dr. Murray's book. The argument is summarised in Murray, The West Indies, p. 125.

and non-political officials. Stephen, with customary prescience, saw this quite clearly, but Hay and his political superiors refused to¹ listen.

This disagreement did not assume significance until the 1830s. From 1812 until 1830 governments of a similar political complexion, usually classed as 'Tory', were in office. While this political stability may have contributed to the emergence of the concept of a permanent civil service, it obscured the potential conflict between permanent under-secretary and secretary of state. Despite Stephen's misgivings, Hay and Horton, who shared political views, simply divided the work of the office between them on a geographical basis, Hay taking mainly the colonies in the Mediterranean and the East and leaving Horton to handle those of the West Indies and North America. Although the colonies which fell to the respective under-secretaries sometimes changed hands in the years after 1825, some such sharing of the duties² was always adopted.

Though almost unrecognized at the time, this division of labour meant that Hay could not fulfil even those functions which the earliest permanent under-secretaries had done. He was not acquainted with the work of the entire office and so could not brief an incoming secretary of state except on a small section of the work. Since he served precisely in the same

1. Stephen's memorandum, 30 Mar. 1832, C.O. 537/22, ff. 3-16; Hay's rebuttal is in his memorandum for 2 Apr. 1832, ibid., ff. 17-8.

2. Young, The Colonial Office, p. 88; Murray, The West Indies, pp. 120, 147.

administrative capacity as the parliamentary under-secretary it is difficult to see his role as anything other than political and therefore inevitably an embarrassment to an incoming government of a different political complexion. He neither provided continuity nor co-ordination,¹ the two principal functions of the modern permanent civil service. When a change of ministers took place, as in 1828 or 1830, it fell principally² to Stephen to perform what Hay neglected.

As Stephen's services in the years after 1825 still far outran his formal responsibilities, he retained the character of an assistant under-secretary. In the period up to 1830, for example, he was increasingly involved with constitutional questions, with drawing up new sets of commissions and instructions to governors, or drafting important parliamentary bills or orders-in-council setting out new constitutional provisions, or in preparing charters or legal codes. He was also frequently consulted on slavery questions and questions pertaining to ecclesiastical affairs,³ his two chief interests. With all these extra duties, he was allowed a sum of £200 out of office funds in 1826 to employ a secretary, bringing

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1. There is, of course, no unanimity about the functions of a bureaucracy; but continuity and co-ordination are two elements most generally stressed. E.g. Max Weber's 'Ideal type' of bureaucracy in C. Wright Mills and H. Gerth (eds.), From Max Weber, Essays in Sociology (London, 1948), pp. 196-239.
 2. E.g. Stephen's Office Memorandum, 3 Feb. 1831, C.O. 323/213, ff. 70-75.
 3. Stephen's supplementary memorandum for Murray, n.d., N.L.S., vol. 171, ff. 58-60; see also vols. cited under note 3 on p. 62.

him more nearly into equality of status with the permanent under-
¹secretary. Even so, pressure of work forced him to engage a second
²clerk at his own expense.

Yet the only attempt, in 1828, to create an office of assistant under-secretaryship for him formally, failed on the old grounds of "official retrenchment" and his "unpopular name".³ It was not until 1834 that a secretary of state would agree to the creation of that position. Stephen's disappointment reflects the general torpor which overtook the work of office reform in the decade after 1825. In April 1827, the government of the Earl of Liverpool which had held office since 1812 finally collapsed. A period of political stability was followed by constantly changing ministries. Liverpool was succeeded in turn by George Canning, Lord Goderich, the Duke of Wellington and Earl Grey, all in the space of three years. At the Colonial Office, Bathurst gave way to Goderich, Huskisson and Sir George Murray before Goderich returned to the post. Political instability meant the postponement of long-range official reforms and yet put the onus for maintaining administrative continuity on the permanent staff. In company with other senior civil servants like Taylor, Stephen⁴ was forced to assume responsibility for keeping the office going.

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1. Stephen to Horton, 5 June 1826, and enclosures, C.O. 323/205, ff. 195-6.
 2. Stephen's memorandum for Murray, 16 Feb. 1830, N.L.S., 171, ff. 56-7.
 3. Huskisson to Wilmot, 18 Oct. 1827, B.M. Add.MS.38751, f. 267.
 4. E.g. Taylor to Miss Fenwick, 13 Nov. 1827, Taylor Papers, Bodleian, Eng. letters d. 6, ff. 177-8; Stephen to J.C. Stephen, 4 Mar. 1828, Stephen Papers, journal of letters to J.C.S., 1816-1845.

Their efforts to do so merely aggravated the discrepancy between their positions and their duties. Stephen was thrust into a position of intimate confidence with either or both of his political superiors. Under Horton, who served Bathurst, Goderich and, for a time, Huskisson, this helped to expedite business. But when Huskisson began to consult Stephen to the neglect of his own parliamentary under-secretary, E.G. Stanley, it proved embarrassing.¹ It is even possible that Stanley, then an ambitious young politician in his first office, acquired from the experience his deep resentment about the participation of officials in policy decisions. Certainly Stephen felt exposed and would have² welcomed more protection than Huskisson was willing to afford him.

Despite objections, the close relationship between Stephen and his superiors continued after Huskisson left office. Stephen's services had become virtually indispensable. He drove himself without consideration for his health, exhausting every ounce of stamina. He was forced to work from six in the morning until late at night on office business, providing his clerks with four times the amount of work which their colleagues in the Office performed.³ By 1828, his influence over his

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1. Stephen to J.C. Stephen, 25 Oct. 1828, Stephen Papers, letters to J.C.S., 1816-1845.
 2. It was to offset Stanley's disfavour that the scheme of creating an assistant under-secretaryship was suggested to Huskisson: Huskisson to Wilmot, 18 Oct. 1827, B.M. Add. MS. 38751, f. 267.
 3. Stephen's memorandum for Murray, 16 Feb. 1830, N.L.S., vol. 171, ff. 56-7.

secretaries of state had become a matter of comment not only in parliament but even in the cabinet. One prime minister, the Duke of Wellington, struggled valiantly to remove his colonial secretary from Mr. Stephen's supposed great and insidious influence.¹ His efforts were unsuccessful. But undoubtedly Stephen himself was excruciatingly embarrassed and hurt at being used so ruthlessly and cynically without his desired and due reward of official promotion. He began to appreciate the need for ruthlessness if his work was ever to be officially acknowledged and recognised.²

In November 1830, with the creation of the second Earl Grey's administration, the Whigs had finally unseated their opponents. Lord Goderich returned to the Colonial Office as secretary of state with Grey's son, Viscount Howick, as his parliamentary under-secretary. Could Stephen, who had certainly some sympathy for the Whigs, hope for better treatment from them than he had received from the Tories? The answer hinged on the attitude of his political superiors. Grey's great reforming ministry had a deep influence on colonial as well as domestic affairs but

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1. Wellington to Murray, 10 Oct. 1829 & 27 Jan. 1830, in Wellington, Despatches, vol. vi, pp. 206, 444. See also H.T. Manning, 'Colonial Crises Before the Cabinet, 1829-35', B.I.H.R., xxx, 1957, p. 47.
 2. The anguish is evident in his memorandum to Murray, 16 Feb. 1830, mentioned above and in Stephen to E. Venn, 21 July 1830, Stephen Papers, journal of letters to various correspondents. By 1832 his feelings had turned to anger in Stephen to Auckland, 6 Oct. 1832, Stephen Papers, loose leaf letters.

little of the impulse to reform came from Lord Goderich. He, like his immediate predecessor, Sir George Murray, was quite incompetent. As Frederick Robinson, 'Goody' Goderich had earlier been under-secretary at the Colonial Office in 1809, president of the Board of Trade from 1818 to 1823 during the period when commercial legislation was liberalized, chancellor of the exchequer from 1823 to 1827 and prime minister for five months in 1827. His reputation, unlike his offices, had steadily declined since his work at the Board of Trade and suffered considerably from his tenure as prime minister when he failed to hold together the different sections of his government. In the Colonial Office his vacillation and inertia showed themselves more openly though, to Henry Taylor at least, he seemed to possess bursts of energy and a core of friendliness to offset his weaknesses.¹ Fortunately for the office, he was supported in Viscount Howick, his parliamentary under-secretary, by an assistant of great ability and considerable prospects to whom he frequently deferred.²

As the third Earl Grey, Howick was to prove himself in Lord John Russell's first ministry from 1848 until 1852 to be one of the most able of nineteenth century colonial secretaries of state. Already, by 1830, when he was only 28, his talents were manifest. Taylor, usually a shrewd judge of character, was unstinting in his praises. To him Howick

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1. H. Taylor, Autobiography (London, 1885), vol. i, p. 118; Taylor to Miss Fenwick, 27 Nov. 1830, Bod., M.S. Eng. letters, d. 7, f. 17.
 2. Howick was painfully aware of the deference: Grey Papers, journal entries for Jan. 1834, Grey Papers, Journals.

was "active, vigorous and decisive in business, honest-minded, and ardent, and in his nature and manners particularly gentlemanly".¹ He undoubtedly ranks with Horton and Goulburn among those who made a significant contribution to the early development of the Colonial Office.

With an ineffectual secretary of state, an energetic but inexperienced under-secretary in the office and a new government in power, Stephen's increasingly powerful role of confidential adviser and tutor to his chiefs gave him the opportunity to stake out a claim for the under-secretaryship.² He grabbed it with both hands. Howick was quickly converted to Stephen's cause. By the breadth and depth of his knowledge, Stephen was able to make a profound impression on Howick who in later life always looked upon him as his mentor and as the greatest authority on colonial affairs.³ Stephen, in his turn, appreciated Howick's talent and potential.⁴ Such perfect rapport between leading officials and their political head had a marked effect on the conduct of business. It seemed to the clerks as if the Office had burst into life after years of torpor.⁵

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1. H. Taylor, Autobiography, p. 119; Taylor to Miss Fenwick, 27 Nov. 1830, & 9 Dec. 1830, & n.d. 1831, Bod., M.S. Eng. letters, d. 7, ff. 17, 18-20, 34-5. See also W.P. Morrell, British Colonial Policy in the Age of Peel and Russell (London, 1930), pp. 201-8.
 2. See Taylor's comments in Taylor to Mrs. J. Taylor, 19 Mar. 1831, Bod., M.S. Eng. letters, d. 7, ff. 32-3. This was the period when Stephen enunciated officially his views on the development of the under-secretaryship: Stephen to Howick, 10 Feb. 1832, Grey Papers, Stephen; Stephen's memorandum, 30 Mar. 1832, C.O. 537/22, ff. 3-16.
 3. Taylor sensed this at the time correctly: Taylor to Howick, n.d., Bod., M.S. Eng. letters d. 7, ff. 139-40. The impression was still clear after Stephen retired: Howick to Stephen, 28 Feb. 1853, Stephen Papers, ~~separate~~ letters.
 4. Stephen to Howick, 26 Jan. 1832, Grey Papers, Stephen.
 5. Such was certainly Taylor's impression: Taylor to Miss Fenwick, Bod., M.S. Eng. letters, d. 7, ff. 18-20.

Among many discussions then renewed was the question of reforming the structure of the Colonial Office. As the discussion progressed Taylor and Stephen, with strong personal interests, emerged along with Howick in the van of reform. By a neat stroke both Taylor and Stephen attached their own claims to promotion to the new movement for office reform. But Hay, equally interested in the question, threw his weight against substantial changes and was, for once, backed by Goderich, a staunch advocate of retrenchment. The deadlock lasted until Goderich's last months in office. In the course of their two-year battle, the reformers moved from a particular to a general attack which involved the whole question of the structure and functioning of the Colonial Office civil service in the nineteenth century.

The first demand for reform came, in 1831, from Stephen as a personal claim designed to force the issue. After years as an unofficial under-secretary, he was beginning to find his position exasperating. His main complaint was that the office clerks, whose co-operation he sometimes was required to enlist in the preparation of his reports, resented having to take orders from someone who was not their official superior.¹ Lacking "a substantive or independent station",² he felt tempted to resign and seek a legal post in the colonies.³ Goderich certainly did not under-

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1. Stephen to Grant, 24 Apr. 1835, Stephen Papers, separate letters.
 2. Stephen to Howick, 17 May, 1833, Grey Papers, Stephen.
 3. Stephen to J.C. Stephen, 12 Oct. 1831; 9 May 1832; 10 May 1832, Stephen Papers, journal of letters to J.C.S., 1816-1845. I have not been able to trace the original letter to Goderich.

estimate the value of his counsel's services, but he saw no need to placate him in view of a certain weakness in Stephen's position.¹ The Whigs had resumed consideration of the slavery question. It was easily seen that with the emancipation bill in the offing, Stephen would not resign or insist upon contracting out of the critical stages of the settlement of a question which so deeply interested him.² Goderich could safely ignore him.

Stephen alone was still not strong enough to persuade his reluctant superior, and a frontal assault on the secretary of state was in any case a bad tactic to adopt. Taylor demonstrated the best method of proceeding when eliciting Howick's support in a private salary claim. Unlike Stephen, he attacked on general principles. As the Colonial Office servants were poorer paid than their colleagues in other state departments, he demanded a general revision of salary scales.³ Howick, typically, took up Taylor's scheme and carried it one stage further. The whole office, in his opinion, demanded reform particularly in view of the

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1. Hay to Spring Rice, Feb. 1831, C.O. 324/133, p. 99. Goderich listened to Stephen on appointments too: Stephen to C.E. Douglas, 30 July 1832, Ripon Papers, B.M. Add. MS. 40880, ff. 303-6.
 2. Stephen to Alfred Stephen, n.d., quoted in C.E. Stephen, Sir James Stephen, pp. 16-7. Even if this letter belongs to another date the sentiments would obviously apply to 1832.
 3. Taylor to Howick, 6 Feb. 1832, Grey Papers, Colonial Office.

recommendations of the parliamentary committee on public offices which had reported in the previous year. Extra allowances, fees and perquisites, should be abolished, the salary scales for the senior classes raised, and the whole scheme rationalized. Howick's plan of reform appeared in February 1832. It was comprehensive, rather too firmly adhering to the supposed need for retrenchment, but aiming at introducing professionalism in the senior classes of clerks by abolishing their extra-official services and raising their salaries. To effect a saving, without which he felt it impossible to propose the scheme to the Treasury, Howick planned to¹ abolish the positions of chief clerk and precis writer.

Though omitted from the plan, Stephen was not forgotten. It is characteristic of Howick that he sent his draft first to Stephen rather than to Goderich or Hay. Stephen took the opportunity thus presented to him to again plead his case, going further in his claims than he had ever done before. The private nature of the correspondence and the close approximation of his views and Howick's allowed him to write with absolute freedom and, for the first time, he indicated that he would no longer be satisfied with an assistant under-secretaryship. He told Howick that in the Colonial Office;

"we have two under-secretaries of state and one Barrister... which last person has long been occupied in works which have but a faint and fictitious relation to his profession as a Lawyer. Without the reproach of arrogating too much

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1. The scheme was never fully worked out though we have three draft plans among the Grey Papers, Colonial Office, [1] - (3)], the last being the one Stephen commented on: Grey's memoranda, 9 Feb. 1832, Grey Papers, C.O. The parliamentary report on which the scheme was based is printed in H.C., 1833, viii (650), pp.1-354.

I may perhaps say that we have three Under-secretaries.
Now I frankly think two quite enough...."

This was clearly a direct challenge to Howick to obtain Hay's dismissal. He was not going to wait for his promotion until Hay retired. There was only one option left to Howick. Stephen himself could be retired with the award of a Queen's Counselship for faithful service.¹ Howick's plan had stopped far short of this.

His letter to Howick seems to show Stephen in an unaccustomed light as a determined power-seeker. This is misleading. It was not the power of an under-secretary which Stephen lacked - he already, in effect, possessed that - but the security, the fame, the salary and the perquisites which promotion could bring. There were good reasons for his determination. His best chance of promotion had come when the Whigs entered office, but he still lacked political connections and had to balance this by a spirited assertion of the value of his services. He was certainly ruthless towards Hay but they had become implacable enemies by 1830, partly because of political differences, partly because Hay suspected that Stephen was usurping his authority and Stephen rightly felt that Hay was unsympathetic to Whig policies and, by dragging his feet during every measure of reform,² was preventing the under-secretaryship from developing as it should.

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1. Stephen to Howick, 10 Feb. 1832, Grey Papers, Stephen.
 2. As usual, Taylor was more outspoken than Stephen on the feelings which they shared: e.g. Taylor to Miss Fenwick, 18 Feb. 1829, Bod., M.S. Eng. letters, d. 6, ff. 347-8. But their antipathy to Hay is evident though unspoken in the² rival views of the Colonial Office: Stephen's memorandum, 30 Mar. 1832; & Hay's memo., 2 Apr. 1832, C.O. 537/22, ff. 3-16, 17-8.

If Stephen was still not promoted by the time the Tories returned to office, he might well be evicted from the administration altogether: Hay and his friends would merely have to charge that Stephen unjustly usurped political functions properly belonging to the under-secretary. This was, after all, exactly what his opponents in and out of parliament had been maintaining all along.¹

Had his critics but known it, Stephen was guilty of a far more culpable offense in their eyes. During the crisis over the Reform Bill of 1832, he was busily writing anonymous articles in support of the government's case in his brother-in-law's newspaper, the Northampton Mercury. If this constituted a breach of official etiquette, his strength of feelings on the subject and his hope for Whig support in his promotion struggle may explain it.²

The movement to reform the structure of the Colonial Office depended entirely on Howick's attempt to convert his chief and when he failed the scheme collapsed. Parliamentary reform took up most of the cabinet's time and Goderich, unfortunately, never had much enthusiasm for the changes.

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1. Stephen's reaction is clear in Stephen to J.C. Stephen, 11 May 1832, Stephen Papers, journal of letters to J.C.S., 1816-1845. See also Stephen to Auckland, 6 Oct. 1832, Stephen Papers, loose leaf letters, where he says: "In the times in which we live, a subordinate official who is not secured of the favourable report of the head of his Department is in a situation so precarious as to justify a very lively anxiety as to the possible consequences of such a position".
 2. Stephen to J.C. Stephen, 11 May, 1832, Stephen Papers, journal of letters to J.C.S., 1816-1845. W.W. Hadley (ed.), The Bi-Centenary Record of the Northampton Mercury (Northmptn. 1920), p. 41.

The plans projected at this time look forward to the Colonial Office reforms of 1836 and beyond, but there was little immediate sign of their influence. Having shot his bolt, Stephen had the choice of resigning or accepting his position and persevering with his work on slavery emancipation. It was an agonising time for him when he felt increasingly betrayed and on the defensive but he ultimately and inevitably¹ chose to stay.

Something of his disillusionment is seen in his unhappy squabble with the Board of Trade in 1832. The transformation of the Board between 1830 and 1850 from a small advisory branch of the Privy Council to a major department of government can be regarded as one of the most striking examples of administrative flexibility in nineteenth century government. It was accomplished only by a considerable augmentation of its establishment and sophistication of its duties and the resultant upheaval had repercussions² in other departments of government.

After 1828 Stephen was seldom employed extensively at the Board of Trade. His work in the Colonial Office expanded so much during the period of rapidly changing ministries and afterwards that it was quite

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1. The agony was aggravated by his father's death on 10 Oct. 1832 - before the passing of the Abolition Act. As usual, Taylor puts Stephen's case more bluntly than he would have ever done himself: Taylor to Howick, 6 Feb. 1833, Grey Papers, Taylor.
 2. H.L. Smith, The Board of Trade (London, 1928), pp. 54-243; Roger Prouty, The Transformation of the Board of Trade, 1830-55 (London, 1957), passim; Lucy Brown, The Board of Trade and the Free Trade Movement, 1830-42 (Oxford 1958), especially pp. 20-33.

impossible for him to give any considerable amount of time to the Board. In 1832, Lord Auckland, the President of the Board, attempting to retrench in his establishment in order to effect a saving with which to create new posts, turned on the legal counselship. Stephen's position was vulnerable since his allowance of £500 did not correspond to his duties¹ and Auckland decided to attack it.

Here, though he failed to see it, was a solution to Stephen's problems. If the Board wanted £500 of his salary, the Colonial Office would have to compensate him and, in order to obtain Treasury permission for the extra sum, his new and more demanding duties could easily be pleaded. This,² in turn, would necessitate a review of his position in the office. But Stephen was too upset to see things so logically. What he found in Auckland's attempt to question his value to the Board was a threat to emasculate his official position and salary. In a very strongly worded letter to Auckland, he rehearsed the agreement under which he had given up his legal career originally, and he threatened immediate resignation³ unless it was fully honoured by the government. Auckland, shocked into an immediate reply by Stephen's vehemence, disclaimed all intentions of foregoing his services, even in their truncated state, and gave the

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1. Stephen to Auckland, 6 Oct. 1832, Stephen Papers, loose leaf letters.
 2. This was, in fact, what subsequently happened in 1835-6: see below, p.93.
 3. Stephen to Auckland, 6 Oct. 1832, Stephen Papers, loose leaf letters.

strongest assurances of his own personal awareness of Stephen's valuable aid over the years to the Board.¹ This evaded the real issue. The Board had a good case for rationalizing its legal services which was not to be lost so easily.

In 1833 Stephen's worst fears seemed realized. Goderich and Howick left office to be replaced by Stanley and John Lefevre. Neither of his new political superiors had much regard for his views nor for his claims. Worse, under Howick's influence, Stephen's work from 1830 until 1833 had been so far removed from his formal responsibilities that the two bore little or no relation to each other. He knew that Stanley would not tolerate this but he was determined that he would neither be confined to his original duties nor be forced to compensate for the shortcomings of his superiors without a struggle.²

Even before Stanley had accepted the seals of the department, Stephen, obviously in great distress, had warned him that he would resign unless his duties were strictly defined.³ Again he was bluffing. The emancipation question was nearly at its final stage when Stephen's knowledge and skill at drafting would be most useful.⁴ In reply Stanley was adamant

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1. Auckland to Stephen, 6 Oct. 1832, Stephen Papers, loose leaf letters.
 2. Taylor to Miss Fenwick, 17 Mar. 1833, Bod., M.S. Eng. letters, d. 7, ff. 184-5.
 3. Stanley to Stephen, 1 Apr. 1833, Stephen Papers, separate letters.
 4. He had remained at his post even when he knew his father had only a few weeks to live: Taylor to Howick, 1 Oct. 1832, Grey Papers, Taylor.

where Goderich had been apathetic. He pointed out that he could make matters difficult for Stephen by giving his resignation the appearance of a dismissal. No lawyer could expect to find suitable employment after having left government office under a cloud. Stanley's tough approach was accompanied by the concession of a partial definition of Stephen's duties:

"I look upon you as the confidential adviser of the secretary of state upon all the complicated points of law arising out of the various colonial codes, as well as upon those constitutional questions on which turn the relations between the colonies and the Mother Country".

This was not to be considered an exhaustive list of his services in addition to legal counselling but only of those on which the secretary¹ of state could not act without consulting him.

Stanley suffered the worst relations with his senior staff of any secretary of state in the entire period of Stephen's public life. He was twice colonial secretary during these years, once from April 1833 until June 1834 and then again from September 1841 until December 1845. As the Earl of Derby, he was later to be Prime Minister three times. Whatever his reputation as a colonial administrator his ineptitude in dealing with the office establishment is beyond question. Part of the trouble lay in his personality. Stanley was a cold, forbidding man with the mighty superciliousness of the traditional landed aristocrat. Immensely ambitious, he had an acute sense of the dignity of a minister of the crown. In 1833, he was serving for the last time in a Whig government

1. Stanley to Stephen, 1 Apr. 1833, Stephen Papers, separate letters.

before his defection to the Tories.¹ His settled policy from the first as secretary was to exclude, as far as possible, all non-political officials from the process of administrative decision-making.² In implementing this reactionary viewpoint, he was dogmatic but at least decisive. Taylor admitted that:

"he had force, energy and vivacity: and he was an effective speaker, always clear and strong, sometimes commonplace but not seldom brilliant. He was not a man of genius, nor could it be said that he had a great intellect".³

Despite his promises of consultation, Stanley made life difficult for Stephen when in office. He insisted upon rejecting his officials' views on emancipation and interfered in every branch of administration. For years it was his proud boast, though it was not particularly accurate, that he had begun a revolution in the Colonial Office by stopping the practice of allowing Stephen's minutes to stand as draft despatches to the governors.⁴ In fact, Stephen's work was not so much diminished by Stanley's interference as frustrated. By setting an example of magnanimity under his superior's slights, Stephen was required to work harder and more extensively if anything than before. It is certainly doubtful if Stanley could have carried on without him since most of the other senior

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1. For Derby's first period at the C.O. see D.J. Murray, The West Indies, pp. 210-14.
 2. Grey's Journal, entry for 30 June 1833, Grey Papers, Journals.
 3. Taylor, Autobiography, i, 131.
 4. Gladstone's entry for 19 Apr. 1839 in Black Leather Book of Secret Political Memoranda, Gladstone Papers, B.M. Add. MS. 44819, f. 45.

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officials were in revolt.

The Sisyphean labours he performed under Stanley brought on a nervous disability in the mid-summer of 1833.² After a short rest he recovered sufficiently to perform his most celebrated task of drafting the whole Emancipation Bill in less than 48 hours. Actually, he strongly disapproved of the clauses on apprenticeship but, true to his code,³ faithfully performed the service required of him.

Unsatisfactory as it was, the Emancipation Act was a climax of a great deal of work which he had performed in the department since 1813. On its completion he determined to leave the Office for good. There seemed no prospect of promotion under Stanley. The Stephen family campaign against slavery had ended in victory even though the terms of peace displeased them. It seemed hardly worth while fighting on. For a time he toyed with the idea of going to India. There was a post available at Calcutta which would allow him to serve as legal adviser to the East India Company.⁴ Another possibility, if Stanley could be persuaded to obtain

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1. He performed the briefing and the spade-work: Stanley to Stephen, 2 Apr. 1833, Stephen Papers, separate letters; Taylor to Miss Fenwick, 12 May 1833, & Taylor to G. Taylor, 15 June 1833, Bod., M.S. Eng. letters, d. 7, ff. 206-11, 212; Stephen to J.C. Stephen, 23 July 1833, Stephen Papers, journal of letters to J.C.S., 1816-1845; Taylor to Miss Fenwick, 24 July 1833, Bod., M.S. Eng. Letters, d. 7, ff. 196-7; Grey's journal entry for 28 Feb. 1834, Grey Papers, Journals.
 2. Stephen to Taylor, 12 July 1833, Stephen Papers, Journal of letters to various correspondents, 1807-1839; Taylor to Fenwick, 24 July 1833, Bod., M.S. Eng. letters, d. 7, ff. 196-7.
 3. W.L. Burn, Emancipation and Apprenticeship in the West Indies (London 1937), pp. 116-8; H.T. Manning, 'Colonial Crises Before the Cabinet, 1829-1835', B.I.H.R., xxx, 1957, pp. 55-6.
 4. R. Grant to Stephen, 6 Sept. 1833, Stephen Papers, separate letters.

a Queen's Counselship for him, was to return to private practice,
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 but there Stanley's support was in doubt. Before a decision could
 be taken on these matters his nervous illness recurred, this time acutely,
²
 and he was forced to take leave.

The period of depression, however, was short-lived and on his
 recovery Stephen determined to stand his ground and strike back at
 Stanley. Perhaps the realization of the eternal administrative vigilance
 which would be required to make the Emancipation Act and its apprenticeship
³
 system effective was the deciding factor. Whatever it was, he was in
 fighting mood. He tried first to make use of Hay and then Lefevre by
 forcing them to oppose their superior, but they proved too pliant to suit
⁴
 his purposes. The experiment was costly. Early in 1834 Stanley
 ordered Lefevre not to show Stephen any official paper except what
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 pertained to his work as legal counsel.

Rebuffed in the Colonial Office, Stephen had to look elsewhere to

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1. Stephen to Taylor, 20 Sept. 1833, Stephen Papers, Journal of letters to various correspondents, 1807-1839.
 2. Taylor to Howick, 25 Sept. 1833, Grey Papers, Taylor.
 3. There is an obvious hint of this in Stephen to Taylor, 3 Nov. 1833, Stephen Papers, Journal of letters to various correspondents, 1807-1839.
 4. Grey's journal entry for 28 Feb. 1834, Grey Papers, Journals; Stephen to Howick, 9 July 1835, Grey Papers, Stephen.
 5. Journal entry for 20 Mar. 1834, Grey Papers, Journals.

guard his future prospects and, as in 1825, he looked outside his own department though still within government service. To offset Stanley's animosity he cultivated Howick's friendship. Howick, who became under-secretary at the Home Office after leaving the Colonial Office, found an opportunity of introducing Stephen to the Home Secretary, Lord Melbourne.¹ Stephen's opinion was then asked on methods of legislating on the creation of a Poor Law Commission. From this, there emerged the idea of Stephen's competing for a place on the Poor Law Board.²

Though it proved impossible, this plan was more than a desire to put pressure on Stanley. The endless press criticisms, the ingratitude of superiors, the over-work, the strain of colonial questions, and vituperation of political opponents, could not be borne easily without some compensation in public standing or in wealth.³ Even after Stanley's resignation in June 1834 Stephen continued to press for a seat on the Poor Law Board, winning the support of Nassau Senior in his claim. He did not finally give up hope of success until Lord Grey resigned and Howick went out of office.⁴

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1. Stephen to Howick, 18 Apr. 1834, Grey Papers, Stephen.
 2. Howick to Stephen, 18 Apr. 1834, Stephen Papers, separate letters.
 3. Stephen to Taylor, 20 Sept. 1833, Stephen Papers, letters to various correspondents, 1807-1839; Howick to Stephen, 19 June 1834, Stephen Papers, separate letters.
 4. Stephen to J.C. Stephen, 10 July 1834, & 31 July 1834, Stephen Papers, journal of letters to J.C.S., 1816-1845.

Stanley's departure from the Colonial Office was followed by the very brief tenure of Thomas Spring Rice as secretary of state with Sir George Grey as his parliamentary under-secretary. Unlike their predecessors they had no qualms about allowing the permanent staff a role in the business of the office. Spring Rice, a sympathiser and friend of Evangelicals, was more susceptible to Stephen's pressure and agreed to secure permission to create a new post designed especially to do justice to his claims.¹ In September 1834 Stephen entered upon the first assistant under-secretaryship in the Colonial Office.² The position was purely honorary: the promotion was not accompanied by an increase in salary and Stephen was still required to act as counsel for the Colonial Office and the Board of Trade. Needless to say, though he was gratified by the official recognition, Stephen felt the award stopped short of his deserts.³

In one way Stephen's nominal promotion amounted actually to a demotion. Since 1830 he had been recognized to be independent of the under-secretaries though they could seek his advice, if they wished. In 1834 as assistant under-secretary, his duties were stated to be:

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1. See Taylor's comment, Taylor to Grey, 3 Oct. 1834, Grey Papers, Taylor.
 2. Order in council, 17 Sept. 1834, C.O. 878/1, ff. 107-9.
 3. Stephen to J.C. Stephen, 17 Sept. 1835 (written: 1834), Stephen Papers, journal of letters to J.C.S., 1816-1845; Spring Rice to Stephen, 1 Sept. 1834, Monteagle Papers, M.S. 550, ff. 76-83.

"to exercise a general control and superintendence over the routine business of the office....and under the orders of the secretary of state and his under-secretaries, to take care that regularity and despatch prevails throughout the department". 1

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The price of promotion was to become Hay's subordinate.

In the other provisions for the new office it was noticeable that Stephen was taking over from his new superior. Office discipline, for example, had been formerly a function of the permanent under-secretary. The preservation of regularity and despatch was a function which Stephen had earlier envisaged in an office memorandum as a desirable one for a permanent under-secretary to have. 3 Feeble though it was, there was no mistaking the significance of the new position. Stephen was one step nearer his goal. The stumbling block was still Hay; but after 1834 there was a very good case for requiring Hay's resignation since he was frequently ill and absent from work. As he still clung to office Stephen was forced to deputize for him for months on end. Grey, too, was in ill health while in office and had to abdicate his official responsibilities to Stephen who, for a period of about two months, served as parliamentary under-secretary, permanent under-secretary and assistant under-secretary simultaneously. 4 It was impossible to confine his attentions to duties

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1. Order in council, 17 Sept. 1834, C.O. 878/1, ff. 108-9. The underlining is mine.
 2. Taylor to Grey, 3 Oct. 1834, Grey Papers, Taylor.
 3. Office memorandum, 30 Mar. 1832, C.O. 537/22, f. 14.
 4. Taylor to Grey, 3 Oct. 1834, Grey Papers, Taylor; Stephen to Short, Taylor, Elliot & Gairdner, 13 Nov. 1834, C.O. 323/218.

for which he had specific authority.

Stephen was also driven to extra work by the political instability of the Whig governments. Spring Rice left office when the government fell in November 1834. The Duke of Wellington then bridged a two month ^{weeks} interregnum until the formation of the first Peel ministry in December. The return of the Tories brought to the Colonial Office the Earl of Aberdeen, as secretary, and William Ewart Gladstone, as parliamentary under-secretary, for a four month's stay. Despite its brevity, the Peel administration succeeded in bringing the struggle for the permanent under-secretary-ship to a head.

With his political allies back in office, Hay decided to make his move to undercut his rival. He asked and received from Peel a dormant retiring pension. This enabled him to retire at will, irrespective of the state of his health or the length of his service.¹ It removed the one strong inducement which a secretary of state could offer to facilitate the retirement of an official. Howick, Stephen and Taylor, all saw this as a political manoeuvre. Hay, they believed, would make use of his pension by choosing to retire only when his political friends were in office so that a suitable successor of similar political affiliations² could be appointed. As Stephen was taken to be of the Whig or party of

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1. Hay to Peel, 26 Feb. 1835, B.M. Add. MS. 40415, f. 212. This seems to have been a secret arrangement and Stephen heard of it only later - Stephen to Howick, 7 Jan. 1836, Grey Papers, Stephen.
 2. Grey's journal entry for 22 Dec. 1835 & 8 Jan. 1836, Grey Papers, Journals; Taylor, Autobiography, i, p. 232.

Reform; this was certain to frustrate his hopes of ever winning the under-secretaryship.

Nothing had been done about finding a successor, however, before the fall of the Peel government and the succession of Viscount Melbourne's administration in April 1835 which brought Charles Grant, later Lord Glenelg, as Secretary of State, and Sir George Grey, as parliamentary under-secretary, to the Colonial Office. Glenelg could be safely numbered among Stephen's political friends from their association in boyhood at Clapham, in business at Westminster Hall and in office at the Board of Trade. Both Glenelg and Grey were notable adherents of the Evangelical group which also commanded Stephen's sympathies.¹ Stephen's promotion seemed assured. All that was required was to expose the scheme to co-opt a Tory appointee and then to prove the legitimacy and desirability of disposing of Hay. Since Hay's illness had worsened, this was no insuperable difficulty.²

Much to Stephen's distress it took twelve months to convince Glenelg. Several reasons were advanced to explain his intransigence. Henry Taylor pointed to one. Although "amiable and excellent" as a superior, Glenelg, he felt, was incapable of filling an office requiring "activity and a ready judgement".³ Howick suspected more sinister motives. Glenelg

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1. J.S. Galbraith, Reluctant Empire (Berkeley, 1963), p. 124; W.P. Morrell, British Colonial Policy, p. 104.
 2. Stephen to Howick, 26 Oct. 1835, Grey Papers, Stephen. For Stephen's first attempt to do so, see Stephen to Grant, 24 Apr. 1835, Stephen Papers, ~~see date~~ letters.
 3. Taylor, Autobiography, p. 147.

had a brother-in-law, Mr. Philips, at the Home Office who might be used¹ by the Tories to exact revenge for Hay's dismissal. Neither of these explanations seems to fit Glenelg. He was scrupulous and fastidious, conscientious to a fault. It seems more likely that he was too impressed by the traditional idea of an office as a freehold, an inalienable right. Even when he was forced to admit that Hay's failings justified his dismissal, he still felt it necessary to take time so as to ensure that the good of the office was protected above all. If he were to sacrifice patronage unnecessarily his political reputation would be affected; and to choose Stephen as permanent under-secretary would almost certainly mean the incorporation of the assistant under-secretaryship in the under-secretaryship. Furthermore, though Stephen could definitely play both roles simultaneously, Glenelg had to consider whether his successors could² be expected to do so.

Left to himself, Glenelg might have remained too paralysed by his perception of the difficulties to come to a decision. Fortunately, neither his cabinet colleagues nor Stephen himself were prepared to wait. Stephen especially used the most blunt pressure to coerce Glenelg. He repeated his old demand for a re-definition of his duties in the light of changed circumstances and he declared that he would serve only in the

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1. Grey's journal entry for 20 Jan. 1836, Grey Papers, Journals.
 2. Glenelg's views can be gathered from Glenelg to Stephen, 7 (?) May 1835; 15 Aug. 1835; 10 Nov. 1835; 17 Nov. 1835 & 14 Jan. 1836, Stephen Papers, separate letters.

capacities which had been officially designated to him.¹ Glenelg's promise that Stephen would succeed, on a vacancy, to Hay's position was brushed aside angrily by him as unconstitutional and unlikely to be acceptable to Glenelg's successors - the real point at issue.²

Though Glenelg's difficulties were real enough, his continual refusal to remove Hay created an intolerable position for Stephen. But Stephen himself was partly to blame. Had he really withdrawn all of his services except for his legal advice and his work on the maintenance of the discipline of the department, Glenelg would have been forced to change his views immediately.³ Stephen, with his phenomenal capacity for work and his elevated concept of public service, merely delayed a decision. At one point, in October 1835, he was attempting to cope not only with the work of both under-secretaries but also with that of four of the senior clerks who were absent from the office.⁴ Inevitably, his work burgeoned rather than slackened. Even when Hay was well enough to attend to his duties only the title stood between Stephen and the under-secretaryship. Glenelg, who had no faith in Hay, almost entirely excluded him from his counsels.⁵

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1. Stephen to Grant, 24 Apr. 1835, Stephen Papers, separate letters.
 2. Stephen to Glenelg, 11 Nov. 1835, Stephen Papers, separate letters.
 3. As he did in 1836: Glenelg to Stephen, 14 Jan. 1836, Stephen Papers, separate letters.
 4. Stephen to Howick, 26 Oct. 1835, Grey Papers, Stephen.
 5. Stephen to Glenelg, 11 Nov. 1835, Stephen Papers, separate letters; Grey's journal entry for 12 Nov. 1835, Grey Papers, Journals.

Understandably, Hay felt not a little peeved at his treatment and made no pretence of his feelings to Stephen who was unquestionably undertaking duties which belonged rightly to the permanent under-secretary alone. It was hardly an adequate defence to claim that the duties had¹ been invited and the irregularity condoned by the secretary of state. The power struggle was in the open and Stephen knew how vulnerable he was. Consequently, he combined periods of intense activity with sudden bouts of inaction when he feared that the government would fail him and his whole career would be in jeopardy.

For months, painfully and persistently, he spelt out his case to Glenelg. As the permanent under-secretary elect he had for all practical purposes taken over from Hay with only the excuse of learning his duties. If Hay was allowed to outlast the Melbourne administration, he would claim that Stephen had encroached unjustly on the under-secretary's authority. Doubtless Hay, who was as effectively excluded from power under Glenelg² as Stephen had been under Stanley, would insist upon a dismissal.

His friendship with Howick offered Stephen his one real hope for the future. In the cabinet, as secretary at war, Howick championed Stephen's³ cause and tried to interest his colleagues in it. At one point he⁴ attempted to get an offer of the governorship of Upper Canada for him.

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1. Grey's journal entry for 12 Nov. 1835, Grey Papers, Journals; Stephen to Glenelg, 16 Nov. 1835, Stephen Papers, separate letters.
 2. This fear is clearly expressed in Stephen to Glenelg, 11 Nov. 1835, Stephen Papers, separate letters, & Stephen to Howick, 7 Jan. 1836, Grey Papers, Stephen. How real it was is shown in Grey's journal entry for 18 Nov. 1835, Grey Papers, Journals.
 3. They both corresponded and met: Stephen to Howick, 26 Oct. 1835, Grey/...

In conversations with the Prime Minister, Lord Melbourne, Howick also urged Stephen's promotion on political grounds. Until the Reform Act, Howick believed, the indefinite nature of party politics had concealed the importance of patronage in the selection of officials for the civil service. But the long tenure of the Liverpool government had in fact resulted in the appointment to the permanent civil service of men with extremely conservative views who tended to be Tories. As these appointments were of increasing importance in the conduct of administration, it was necessary, he suggested, to put "steady friends of our own into the most important" of them.¹

What irritated Howick was that the political opponents of the Whigs seemed fully aware of the importance of the permanent civil service. How else could one explain the fact that four Tory officials, Hay at the Colonial Office, George Barrow at the Admiralty, James Stewart at the Treasury and Sir Francis Freeling at the General Post Office, were all in bad health and yet were known to be postponing their retirements until the return of a Tory government. The worst case was Hay. Howick "most strongly urged" his dismissal on the grounds of:

"his incompetence, of the impropriety of keeping a man

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3. (continued) Grey Papers, Stephen: Grey's journal entry for 13 Nov. 1835 & 21 Nov. 1835, Grey Papers, Journals; Howick to Stephen, 7 Jan. 1836, Stephen Papers, separate letters; journal entries for 18 Nov. 1835, 22 Dec. 1835, & 8 Jan. 1836, Grey Papers, Journals.
 4. Grey's journal entry for 18 Nov. 1835, Grey Papers, Journals.
 1. Grey's journal entry for 22 Dec. 1835, Grey Papers, Journals.

in such a situation and at the same time placing in him no confidence whatever, and of the facility of getting rid of him by reducing the under-secretaryships to two which is quite ample". 1

The last point, of course, immediately recalls Stephen's letter to Howick² in 1832.

In desperation, Stephen had also become interested in Stewart's impending retirement and applied to be considered for the Treasury post early in 1836.³ The application never matured, however, as the crisis in the Colonial Office finally collapsed. The deus ex machina on this occasion was the Board of Trade. Under its president Charles Poulett Thomson, the Board of Trade re-embarked on a programme of reform and re-organization in 1835 on the occasion of the retirement of its chief clerk, Thomas Lack.⁴ Thomson, unlike his predecessor Auckland, worked in concert with Stephen in regard to the counselship.. The Treasury was instructed to stop the payment of Stephen's £500 from the Board's funds. At the same time, with Thomson's connivance, Stephen made it known that he had been suggested for the vacant chief clerkship and that he would accept it if Glenelg persisted in his refusal to get rid of Hay.⁵

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1. Grey's journal entry for 22 Dec. 1835, Grey Papers, Journals.
 2. Stephen to Howick, 10 Feb. 1832, Grey Papers, Stephen.
 3. Stephen to Howick, 7 Jan. 1836, Grey Papers, Stephen.
 4. Howick to Stephen, 7 Jan. 1836, Stephen Papers, separate letters.
 5. Grey's journal entries for 8 Jan. 1836; 20 Jan. 1836; Grey Papers, Journals; Glenelg to Stephen, 14 Jan. 1836, Stephen Papers, separate letters.

Although Glenelg continued to prevaricate until the last moment,¹ the pressure from his colleagues and from Stephen finally told. At the end of January 1836. Hay was dismissed and arrangements were made with the Treasury to enable Stephen to succeed him. Like all changes in the establishment in this period, the alteration was presented as a measure of retrenchment. As Stephen and Hay had suggested, the post of assistant under-secretary was abolished and Stephen became the sole permanent under-secretary, serving as legal counsel in addition to his new duties.

It was unfortunate that such an unseemly squabble should have characterised the elevation of a most deserving official: it was doubly unfortunate in that it left a lasting fear in Stephen's mind that he would one day be unseated, as he had been appointed, on political grounds. Glenelg must bear a large part of the blame for the creation of this impression.³ Yet Stephen's rise can be set in too narrow a compass. The personality squabble reflects, in part, the deep changes which were occurring within the civil service in the early nineteenth century. ✓

Howick correctly detected the increasing importance of party politics in government and hence in the civil service in the 1820s and 1830s.

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1. Grey's journal entry for 27 Jan. 1836, Grey Papers, Journals.
 2. Spearman to Grey, 19 Feb. 1836, C.O. 323/222, f. 175.
 3. Hay thought so too: Grey's journal, entry for 28 Jan. 1836, Grey Papers, Journals.

Though the establishments had been stratified, the avenue of official promotion from the ranks still stopped short of the top position in the civil service hierarchy since this was a special appointment of the secretary of state with a political significance which was fairly widely appreciated.¹ But the increasing complexities of government demanded particular qualities of the senior civil servant. The day of the amateur was passing though the ideas which he represented lingered on. In the last analysis, the party machine was replacing the influential patron in the selection of candidates and intellectual capacity, not political affiliation, would have to be the first consideration.² Caught between the eighteenth century conception of King's Friends giving voluntarily of their time and energy to the state and the nineteenth century's embryonic professionalism in public service, the aspiring civil servant of Stephen's day was uncomfortably placed. The resolving of Stephen's dilemma, in this sense, signifies the birth pangs of the modern civil service.

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1. Grey's journal entry for 22 Dec. 1835, Grey Papers, Journals.
 2. G. Kitson Clark, ' "Statesmen in Disguise"; Reflections on the History of the Neutrality of the Civil Service', The Historical Journal, vol. ii, no. 1, 1959, pp. 19-39.

CHAPTER II

Men and Machinery: The Reorganization of
the Colonial Office, 1836-1849

(1) A Plan for Reform.

Between his appointment as permanent under-secretary in 1836 and his retirement eleven years later, Stephen witnessed the creation of two governments, those of Sir Robert Peel in 1841 and Lord John Russell in 1846, and a succession of no less¹ than six colonial secretaries of state, Lord Glenelg, the Marquess of Normanby, Lord John Russell, Viscount Stanley, William Ewart Gladstone and Earl Grey. Normanby and Gladstone served only for six months and Stephen retired in effect only a year after Grey's appointment; but Russell stayed as a colleague for two years, Glenelg for nearly four and Stanley for over four years. These longer tenures of the headship of the office by eminent politicians in part reflected a growing recognition of the importance of colonial affairs in the conduct of government. This was mainly attributable to events in the empire. The eleven years of Stephen's under-secretaryship were years of turmoil. In Upper and Lower Canada minor rebellions broke out and produced in consequence the mission of Lord Durham and the Canada Act of 1840 which marked the beginning of the evolution of the system of responsible government. In the southern hemisphere the acquisition and settlement of new territories in Australasia proceeded apace in a blaze of

1. Stanley, Russell and Gladstone were subsequently Prime Ministers; Stanley, Gladstone and Grey had held posts at the Colonial Office before 1836 and therefore knew something of its ways. Peel, as Prime Minister, also prized the office and recommended it to Gladstone and Stanley as a position of great importance. See R.B. Pugh, 'The Colonial Office, 1801-1925', C.H.B.E., III, pp. 711-768.

publicity quite new in nineteenth century imperial history. In South Africa the Boers trekked and the empire reluctantly trekked after them. In the West Indies slavery finally disappeared and efforts were made to find new sources of labour in an attempt to keep the economy alive. And on the marches of India, around the Straits Settlements, in China and in the Pacific, the imperial frontiers continued to expand.¹

Though every investigation into the functioning of the Colonial Office between 1836 and 1850 elicited evidence of the vast increase in the amount and in the complexity of colonial business which was taking place no major increases were made in the office establishment.² How, then, was the office able to cope? Clearly neither the appointment of a talented permanent under-secretary, no matter how prodigious his energy, nor the increasing average length of tenure of secretaries of state are in themselves a sufficient explanation. A fuller explanation lies in the changes in administrative procedure undertaken on Stephen's appointment and in the series of devices adopted at his suggestion for assisting the work of the department. This was a major contribution to the reform of the Colonial Office administration but, perhaps because his methods were

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1. There is no single work on this period but C.H.B.E., vol. II, gives much background information.
 2. 'Minutes of Evidence before the Select Committee on Public Offices, Downing Street', H.C., 1839, XIII (466), pp. 235-59; 'Report of the Committee of Enquiry into the Colonial Office, dated Dec. 15, 1849', H.C., 1854, XXVII (1715), pp. 79-97. See also Henry Hall, The Colonial Office, p. 24.

informal or perhaps because bureaucratic changes seem dull and boring, the extent of Stephen's achievements has never been fully appreciated. Yet, in this unelevating work, he in many ways anticipated the structural reforms undertaken throughout the civil service over two decades after he had left office. His reforms have a further significance, for it was through the structure and functioning of the office as he envisaged it that Stephen and the other permanent officials exerted their influence on the conduct of administration.¹

Stephen's ideas on the reorganization of the office matured over a long period before his appointment as under-secretary. His opinions were formed in the early decades of the nineteenth century when retrenchment was the first principle of government and expenditure on the non-productive agencies of administrative bureaucracy was the cardinal sin. Even men like Stephen, who deplored Treasury parsimony when political projects or the interests of private individuals were at stake, were devoted to the idea of keeping down expenditure on the machinery of government.² Since the Colonial Office was a new department, it had been in the period before

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1. There are three pioneer articles which are relevant for this problem: Edward Hughes, 'Sir Charles Trevelyan and Civil Service Reform, 1853-5', English Historical Review, LXIV, 1949, pp. 53-88, 206-234; & 'Civil Service Reform, 1853-5', Public Administration, XXXII, 1954, pp. 17-51; G. Kitson Clark, " 'Statesmen in Disguise'; Reflections on the History of the Neutrality of the Civil Service", The Historical Journal, II, 1, 1959, pp. 19-39.
 2. Compare, for example, Stephen's minute 3 Mar. 1840 on Trevelyan to Stephen, 2 Mar. 1840, C.O. 323/226, with Stephen to Mrs. Austin, 26 Feb. 1839, Stephen Papers, Journal of Letters to Various Correspondents, 1807-1839.

1825 initially prodigal of public finances; and its expenditure was often the subject of parliamentary protests. Thereafter, like all other departments, it was subjected to the strict economy imposed by the Treasury on establishment expenditure.¹ As an admirer of Bentham's philosophy, Stephen, throughout his career, usually responded to the call for retrenchment in the public service. But, to a Utilitarian, economy was not to be favoured at the expense of efficiency. Consequently, he was still able to exercise his critical faculties on the prospects for administrative reform.

As counsel and as assistant under-secretary, Stephen had been a determined critic not only of office procedure, though that was always perhaps his first consideration, but also of the structure and composition of the office. His keen mind and comprehensive knowledge had given him a fresh insight into the problem of the division of labour in the office. Essentially, he had felt that the office was top heavy: there was a need for a demarcation of duties which would differentiate between "intellectual" and "mechanical" labourers, instead of leaving everyone clamouring for the former duties. The "intellectual" and numerically smaller group should be confined to the establishment grades of officials. The "mechanical" duties should be assigned ideally to a new class employed purely as copyists and paid by fees.

1. Young, The Colonial Office, pp. 147-168. Each year the Treasury in asking for the preparation of the annual estimates insisted upon "the most rigid economy, excluding every charge whatever which is not indispensably necessary for the due performance of the Public Service". Treasury to Stephen, 20 Nov. 1845, C.O. 323/230, f. 269.

This new class could profitably replace all clerkships below the second class so that a reduction in the total establishment might thereby be secured. Not only would a copying class be cheaper, he claimed, but ultimately it would also be more efficient as copyists provided "all the advantages of task work". The demarcation of duties would ensure that the leading officials would be free to devote themselves to creative work without being burdened intolerably by routine matters; and it would create also a class which, unlike the existing lower clerical grades, did not feel humiliated by being asked to undertake matters of official drudgery. These radical suggestions seem to have originated in Stephen's legal training (copyists were regularly used by legal firms) and in his Colonial Office experience as Counsel where his eager professionalism had come into conflict with the superior bearing of clerks recruited wholly on considerations of patronage.¹

His second chief concern was to evolve:

"a scheme by which some unity of principle and action might be maintained throughout the various departments of the office".²

Not only was the office top-heavy but it also lacked central control. The procedure for taking decisions and assigning responsibility for the office work was haphazard and confused. After 1830, Stephen became increasingly convinced that the only solution lay in making the permanent under-secretary

1. Stephen to Grant, 24 Apr. 1835, Stephen Papers, separate letters.

2. Stephen to Howick, 10 Feb. 1832, Grey Papers, Stephen.

the central co-ordinator of office business - an opinion which, of course underlay his conflict with Hay. The permanent under-secretary would undertake to supervise all the work which involved the permanent officials.. Again it is easy to see how Stephen's own experiences sharpened his insight, particularly as he believed in an active colonial policy on the question of slavery, and yet wished to avoid the charge of unduly influencing policy decisions. The scheme he suggested had the additional merit, at least in the Treasury's view, of eliminating one salary from the establishment by fusing the offices of assistant and permanent under-secretary¹ - a saving that was accomplished in 1836 on Stephen's promotion.

His third main consideration before 1836 - "the advancement of our most able men to the most responsible places" - was equally unlikely to involve increased bureaucratic expenditure. Convinced as Stephen was of the great importance and delicacy of the work of the Colonial Office especially in the years before the final abolition of slavery, he naturally wished to see talent rewarded - including his own - by immediate promotion to positions of influence. In order to make this possible, however, it would have been necessary either to abolish the existing rules or conventions on promotions which acknowledged only the grounds of seniority, or to compulsorily retire the incompetent officials and then to demand a high

1. His three main ideas are summarised and set out in two stages: the first as a response to a Howick memorandum 'On the Establishment of the Colonial Office, 9 Feb. 1832', Grey Papers, Colonial Office, to which Stephen to Howick 10 Feb. 1832, Grey Papers, Stephen, is the reply; and the second as part of the attack on Hay in Stephen's memorandum, 30 Mar. 1832, C.O. 537/22, f. 3.

measure of public responsibility in the use which secretaries of state made of their patronage. This, at base, was nothing less than an attack on the traditional use of patronage in the civil service as a political lubricant. It was not an attack on patronage itself, which Stephen continued to support, but merely on its abuses for political ends. He was sufficiently impressed by the quality of at least some of the clerks appointed in the 1830s to feel that the office could solve its immediate problems by merely giving merit its due reward in future vacancies. Put in this way, the suggestion seemed more acceptable than a blunt plea for the valuing of expertise over experience, or capacity over connections and, no doubt in consequence, it was the first of his suggestions to be implemented in practice. when he himself and a few of his clerical colleagues¹ were raised rapidly through the ranks.

Stephen's ideas on office reform went largely unheeded before 1836 apart from the re-arrangements involved in putting the junior clerks under the discipline of a senior official and in keeping a regular record of colonial business, both of which functions were attached to the assistant under-secretaryship created in 1834.² Copyists were employed more

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1. Stephen's most able colleagues, H. Taylor, T.F. Elliott and W.H.C. Murdoch, had all been promoted by 1836: Young, The Colonial Office, pp. 52-3, 69-70, 95-96, 98. They are specifically mentioned in Stephen to Howick, 10 Feb. 1832, Grey Papers, Stephen.
 2. Order in Council, 17 Sept. 1834, C.O. 878/1, f. 107; Spring Rice's memorandum, 7 Oct. 1834, enclosing Stephen's memorandum, 4 Oct. 1834, C.O. 537/22, f. 30; Stephen to Smith, 29 Sept. 1834, C.O. 323/218, f. 202A.

frequently but were not organized nor related to the establishment. The permanent under-secretary, Hay, continued to divide office business between himself and the parliamentary under-secretary. The rules about the normal promotion of clerks by seniority were retained and no attempt was made to co-ordinate office policy.²

On his appointment as permanent under-secretary, Stephen attained a position of power and influence which largely allowed him to determine how the office would operate. The permanent under-secretary was unquestionably the chief civil servant in the Colonial Office. If his powers were undefined, they were nonetheless substantial and well recognized. In terms of salary and in general estimation he ranked at least equal to the parliamentary under-secretary and above any clerk or other official.³

By 1836, when his ideas had matured, Stephen saw that the post meant much more than had ever been realized. Since the parliamentary officials at the head of the office were increasingly dependent on the civil servants for the discharge of their duties, the permanent under-secretaryship must

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1. Stephen's list of Colonial Department Contingencies, item 11, 'Return of Contingency Expenses for 1835', H.C., 1836, XXXVII (537). Compare this figure of over £4000 with the £7000 in 1829; Young, The Colonial Office, p. 121.
 2. Taylor to Grey, 3 Oct. 1834, Grey Papers, Taylor.
 3. Since 1833 the salary of the permanent under-secretary (£2000/ann) had been greater than that of the parliamentary under-secretary (£1500 per ann); 'Proposed Scale of the Establishment of the Colonial Department, 1 Apr. 1833', C.O. 878/1, f. 100. Taylor says the two posts were 'of similar rank': H. Taylor, The Statesman (Cambridge, 1927; edited H.J. Laski), p. 106.

become a crucial position. Only the permanent under-secretary could adequately fill the role which secretaries of state invariably required of a font of knowledge on the intentions as well as on the decisions and motives of previous governments, on the current problems and prospects in colonial policy and on the ability and conduct of all officers with whom the secretaries must correspond. He alone could provide the continuity and the detailed knowledge on which every effective decision must be based. Hay, by dividing the duties of the office and neglecting to keep himself informed, had disguised these functions and perverted the natural development of the office. His successor's first task would be to correct Hay's mistakes and revert to the original conception of the permanent under-¹secretaryship.

In the same year that Stephen attained the under-secretaryship his friend and colleague Henry Taylor published his celebrated "disquisitions on the attributes of a statesman".² 'The Statesman', unjustly neglected ? by historians, is a unique and remarkable book, most revealing in its reflection of contemporary bureaucratic opinion. Taylor based his central

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1. Stephen to Howick, 10 Feb. 1832, Grey Papers, Stephen; Stephen's memorandum, 30 Mar. 1832, C.O. 537/22, f. 3. Notice too the criticism implied in the creation of the assistant under-secretaryship which clearly echoes Stephen's opinions: Order in Council, 17 Sept. 1834, C.O. 878/1, f. 107. Stephen acknowledges this in Stephen to Grant, 24 Apr. 1835, Stephen Papers, separate letters.
 2. Henry Taylor, The Statesman, originally published in 1836 has been frequently reprinted. It is surveyed in Wilfrid Harrison, 'Sir Henry Taylor and "The Statesman"', Public Administration, XXX, 1952, pp. 61-70.

argument on two rather controversial premises. The first was that a civil service was, by the time he was writing, an inevitable, desirable and indispensable part of the business of government and that statesmanship had come to consist largely of finding and utilising the best civil service talents available. The second was that to a statesman the real business of government consisted almost exclusively of adjudicating on alternative solutions to problems presented to him by his official subordinates, and the mark of high statesmanship consisted in the ability to take wise¹ decisions on the evidence provided by his civil servants. These assumptions, like Taylor's whole book, were partly the product of his twelve years of observation and experience in the Colonial Office but also partly the product of discussions with the man in whom he considered "the active² and contemplative faculties most strongly meet" - James Stephen.

Undoubtedly Stephen's influence went very deep. In the chapters where Taylor discusses his proposals for reforming the office his two main recommendations - the introduction of an official copying class and the elevation to a position of solitary eminence and power of the permanent under-secretary (or, in Taylor's view, under-secretaries, for he wanted four to six instead of just one) - were personal variations on a Stephen

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1. Taylor, The Statesman, see especially, Preface & Chapters 3, 5, 8, 11, 12, 33, 34, 38, & 34, pp. 11-17; 25-28; 37-44; 56-9; 60-5; 106-18; 119-35; 152-5; 187-91.
 2. Taylor, ibid., Dedication, p. v. See also Preface and Conclusion, pp. vii-xii, 187-191.

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 theme. Even the concern for "philosophical" government, or long term
 political planning, deriving from but above routing^e administration, had
 its origin in a suggestion from Stephen.² It is also significant that
 Taylor, apart from his recommendations on the permanent under-secretaries,
 concentrated like Stephen more on changing the mechanics of the office
 (the methods of choosing personnel and of promoting and remunerating them)
 than on a massive reconstruction of the establishment.³ The Wilmot
 Horton reforms, in fact, had done enough in the opinion of the leading
 civil servants to supply the number of men and the degree of professionalism
 required to tackle all office business. It was not expansion that was
 required but the consolidation of official forces and the efficient
 standardisation of business methods.⁴

In order to establish or, as Stephen insisted, to re-establish the
 permanent under-secretary as the lynchpin of the official administrative

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1. Compare Stephen to Howick, 10 Feb. 1832, Grey Papers, Stephen, and Stephen's memorandum, 30 Mar. 1832, C.O. 537/22, f. 30, with Taylor's Chapters 22 and 23 in 'The Statesman'. The similarity stretches to the use of identical words and phrases, for example, in the suggested division between 'intellectual' and 'mechanical' clerks.
 2. Stephen suggested this in a letter to Taylor: Stephen to Taylor, 16 Nov. 1835, Stephen Papers, Journal of letters to various correspondents, 1807-1839. The debt which Taylor's Chapter 22 owes to this letter extends to the use of wry humour in commenting on the government's devotion to "getting off the mails".
 3. Taylor is more explicit than Stephen in suggesting how the adjustments are to be made. Taylor, The Statesman, Chaps. 22 & 23.
 4. Young, The Colonial Office, p. 123.

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 system, it was vital that he should assume supreme control of all office business handled by the clerks and of all communications between the clerks and the parliamentary officials. The direct access of clerks to the political heads had to cease; and internal office correspondence had to be regularised so as to pass via the permanent under-secretary.² Only in this way could the permanent under-secretary be fully apprized both of the work which the officials felt required attention and the policies and programmes which the political heads wished to implement. Otherwise the left hand would not know what the right hand was doing since the political heads were too pre-occupied elsewhere to remember and the junior clerks were not in a position to know which decisions taken in one area were relevant in examining problems in any other. The permanent under-secretary had to be the official storehouse of memory and the political co-ordinator, particularly as otherwise the resignation of a secretary of state or the promotion of an official would totally disrupt the line of continuity.³

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1. In his memorandum Stephen says that "it was intended" that the permanent under-secretary of state should play a different role from Hay's, obviously meaning that he was informed of Wilmot Horton's intentions in 1825: Young, The Colonial Office, p. 115. But Horton is said merely to have wanted "a font of knowledge". It was Stephen, apparently, who decided that this role could only be played once "a proper division of labour throughout the Department" had been made and "a settled plan....for the methodical dispatch of business" introduced: Stephen's memorandum, 30 Mar. 1832, C.O. 537/22, f. 3.
 2. Hay's methods of business, of which this was a criticism, are set out in Young, The Colonial Office, pp. 86-8, 94-5. Hay expounds his administrative philosophy in a memorandum which rejects the idea of co-ordination and control centred on the permanent under-secretary in Hay's Memorandum, 2 Apr. 1832, C.O. 537/22, f. 17.
 3. Stephen to Howick, 10 Feb. 1832, Grey Papers, Stephen; Stephen's memorandum, 30 Mar. 1832, C.O. 537/22, f. 3. Between 1827 and 1836 there were eight secretaries of state in nine years.

The weakness in Stephen's conception of the under-secretaryship, as Hay, with his pessimistic intuition, grasped immediately, was that the secretary of state and parliamentary under-secretary would have to agree to take decisions more on the opinion of their subordinates than on any personal examination of the individual cases ab initio.¹ Taylor and Stephen differed from Hay in thinking this an already complete and inevitable development. They maintained that colonial government had become too complex for politicians to be able to act on their own initiative. Secretaries of state and parliamentary under-secretaries entered office ignorant of colonial business and were subsequently pre-occupied throughout most of their period in office by cabinet or parliamentary affairs. In this view, Taylor and Stephen were generally correct. But in fixing on the permanent under-secretary as the sole consultant for the parliamentary heads, though a logical and even enlightened notion, they ignored the other officials and sources of information open to a statesman and forgot that the ultimate judge of office procedure would be the secretaries of state. For them efficiency and consistency, which the permanent under-secretary could ensure, might not weigh as heavily as other, more political, considerations. Since Stephen implicitly and Taylor explicitly accepted that the permanent under-secretary must help to make policy, it seems that they were already assuming that civil servants would act and would be treated as

1. Hay's memorandum, 2 Apr. 1832, C.O. 537/22, f. 17.

a-political officials.¹ This assumption was perhaps a little premature before 1836.

(II) Reform Achieved: Correspondence and Copyists.

In 1836 Stephen's ideas were put to the test. Fortunately, Lord Glenelg and Sir George Grey, despite the incident over his promotion, were decidedly friendly towards Stephen and great admirers of his abilities. Even in November 1835 Glenelg had assured Stephen of this fact. He was "sensible", he wrote, "of all your kindness to me, and how warmly and generously you have worked with me and for me at all times before I was in this office and in a still more abundant degree since I came into it".² This confidence was at least partially reciprocated. Stephen enjoyed the freedom which Glenelg allowed him and thought his superior's "kindness... inexhaustible".³ When the pattern of office business came to be worked out it was Stephen's views which prevailed; and by the time Normanby

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1. Stephen's memorandum, 30 Mar. 1832, C.O. 537/22, f. 3 and Taylor The Statesman, Chapter 32. Their blindness may be partly attributable to their correct insistence on the a-political nature of the vast majority of the problems with which the bureaucracy had to deal.
 2. Glenelg to Stephen, Private, 17 Nov. 1835, Stephen Papers, separate letters. It is interesting that in the accompanying open letter Glenelg comments favourably on the doctrine of laissez-faire in administration which was exactly what Stephen wanted to destroy: Glenelg to Stephen, 17 Nov. 1835, Stephen Papers, separate letters.
 3. Stephen to Howick, 26 Oct. 1835, Grey Papers, Stephen. Stephen trusted that Glenelg's tolerance would allow him to write to Howick on political topics under consideration in the Colonial Office even before they had been submitted to the secretary or parliamentary under-secretary: Stephen to Howick, 1 July 1837, Grey Papers, Stephen.

succeeded Glenelg, fully three years later, these views had become standardised and institutionalised in the structure and functioning of the office.

It was typical of Stephen's self-effacing business methods that the changes he introduced were made informally: no legislative act or order¹ in council established the new methods of proceeding. Politicians and civil servants alike were content to rely on Stephen's rules as if adopted by common consent and implemented merely as a matter of departmental convenience or as a simple rationalization of a system long recognized in theory though never before carried out in practice.² The administrative revolution of 1836 in the Colonial Office (for it is no exaggeration to call it that) was, apart from Hay's dismissal, both bloodless and silent. This is no doubt partly to be explained by Stephen's wish to avoid criticism in parliament or in the cabinet, but it is also a reflection of his skill in manipulating the office machine so as to meet his three main criticisms of its functioning, without³ disturbing what had already been achieved.

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1. This was most exceptional. All the five secretaries of state whom Stephen served except Glenelg resorted to orders in council when trying to effect reforms in the office: List of Orders in Council for the Colonial Department, C.O. 878/1.
 2. Since no official except Stephen was given extra work as a result of Stephen's re-organisation, none felt aggrieved. Such, at least, was Taylor's view - and he well appreciated how extensive the changes were. Taylor to Gladstone, 8 May 1846, B.M. Add. MS. 44364, f. 79.
 3. By the time the Cabinet did get to hear of the changes in the regulations, Glenelg was able to answer their criticisms by appealing to the obvious success of the new methods: Cabinet Memorandum, Russell Papers, P.R.O. 30/22/3C.

Some of the changes he made are generally known. Stephen did not invent but he adopted, systematized and regularised a method of handling departmental correspondence which became standard in all departments in the second half of the nineteenth century. On this system his whole administrative philosophy was pivoted. Basically what he did was to institute a strict demarcation of functions between the permanent civil service on the one hand and the political heads on the other. All official departmental correspondence was to be handled first by the civil servants: they, through the agency of the permanent under-secretary, and through him alone, would then refer the matter to the political heads in such a form as to enable them to come to a decision. Once the politicians had decided on some form of action, the papers were to be handed back to² the civil servants and the appropriate replies drafted.

Each step was recorded by a written notification, called a 'minute', as the papers passed from one hand to another. On every set of papers there would be at least three minutes: firstly, the permanent under-secretary's minute referring the question to the parliamentary under-

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1. The system is described in R.B. Pugh, The Records of the Colonial and Dominions Offices (London, 1964), pp. 36-7; and in 'Report of the Committee of Enquiry into the Colonial Office, 15 Dec. 1849', H.C., 1854, XXVII (1715), pp. 47-8. Both these, however, describe the system after Stephen's resignation when it had been altered somewhat. The minutes were generally made on the back of the dispatch, or in the margin or on the "turn-ups", unless a specially long minute was required.
 2. See, for example, Stephen's minute of 12 Jan. 1840 on Gordon to Stephen, 18 Nov. 1840, C.O. 323/226, f. 213.

secretary, then the parliamentary under-secretary's minute with his view and finally the secretary of state's minute announcing the final decision. Since the secretary of state then passed the papers back to the permanent under-secretary there was, of course, a possibility that further correspondence might be occasioned before the questions were finally disposed of; but the idea of a chain of command or of responsibility was implicit in the structure and marks its great advance over the previous system. No question could be decided unilaterally or peremptorily. For Stephen, himself, a standardised system had a particular attraction since it made the individual official merely part of the machine and so while it "could not obviate the reproach of undue interference, would at least render it¹ ill-founded and unjust".

Below the political level the system was more complex. Once papers had arrived in the office and been registered they were invariably to be sent to the permanent under-secretary's desk. He then distributed them to the heads of the appropriate division, or sub-department, or other authority. The departmental heads arranged for the consultation of past papers, the preparation of precis and any other work which had to be done before a decision could be taken on the questions involved. Once this

1. Cabinet Memorandum, 1839, Russell Papers, P.R.O. 30/22/30. In this defence which Glenelg prepared for the Cabinet in 1839 there is not only a description of the essentials of the procedure but a statement as to motives and authorship. Compare the procedure there described with the pre-1836 model sketched by Taylor in Taylor to Gladstone, 8 May 1846, B.M. Add. MS. 44364, f. 79.

had been completed, the divisional heads re-submitted the papers to the permanent under-secretary (adding their own minutes if asked to do so), with the relevant enclosures attached. On examining all the material, the permanent under-secretary added his minute referring the question to the political heads. When the secretary of state's decision was known, the permanent under-secretary personally drafted a reply based on the minutes or, more usually, passed the papers back to the appropriate departmental head for the preparation of drafts within his division.¹ These drafts then passed up the ladder to be seen, initialled, and if necessary amended by the permanent under-secretary, the parliamentary under-secretary and the secretary of state, before being finally copied² and signed for transmission to the correspondent.

The maintenance of continuity and co-ordination, the restriction of 'intellectual' labour to a few by a stratified system of command, these important considerations were well served by Stephen's system. It was admittedly rather-cumbersome and its critics, contemporary and recent, in examining it in operation, have been able to unearth unelevating instances of bureaucratic formalism.³ Nonetheless, it is surely significant that

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1. For the junior clerks the system is described in Jadis & Halksworth et al. to Stephen, 1 Apr. 1846, C.O. 537/22, f. 169. Russell gives a further account in Russell to Treasury, 17 Dec. 1839, C.O. 537/22, f. 89.
 2. The procedure can be observed by studying the relevant In-letters series of Colonial Office papers. For details, R.B. Pugh, The Records, pp. 21-43.
 3. The contemporary charges against the system are most conveniently studied in Charles Buller's lampoons, "Mr. Over-Secretary Stephen" and "Mr. Mother-Country": see E.M. Wrong, Charles Buller and Responsible Government for the Colonies (Oxford, 1926), pp. 137-162.. The more recent charges are summarised in R.B. Pugh, "The Colonial Office, 1801-1925", C.H.B.E., III, p. 721.

but not very many a very common

the new system coped well with an ever-increasing volume of correspondence. It was not the failure of the Colonial Office to arrive at decisions which Lord Durham bewailed, for example, but the inconvenience of frequent Colonial Office interference.² The system had also two supremely important advantages over former methods. By establishing the dichotomy between civil and political officials through confining the latter to matters of deliberation and decision, it made possible the evolution of an anonymous civil service and shaped the concept of parliamentary or ministerial responsibility. The parliamentary officials were enabled to take full cognizance of every decision taken in their department and so came eventually to play their familiar modern role.³ That this was no mere accident is quite clear from Stephen's precocious views on the role of the secretariat as early as 1833.⁴ He then even imagined, perhaps somewhat naively, that the politicians, freed from official drudgery, might use their new positions to devise and plan long-term policies.⁵

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1. For an idea of the extent of the extra work see Unwin to Stephen, 27 Mar. 1846, Jadis & Halksworth et al. to Stephen, 1 Apr. 1846, C.O. 537/22, ff. 155, 169.
 2. Sir C.P. Lucas (ed.), Lord Durham's Report on the Affairs of British North America (Oxford, 1912), II, pp. 101-7.
 3. G. Kitson Clark, " 'Statesmen in Disguise' ", The Historical Journal, II, i, 1959, pp. 19-39.
 4. Stephen to Howick, 17 May 1833, Grey Papers, Stephen. See also E. Hughes, 'Sir James Stephen and the Anonymity of the Civil Servant', Public Administration, XXXVI, pp. 29-33.
 5. Stephen to Taylor, 16 Nov. 1835, Stephen Papers, Journal of letters to various correspondents, 1807-1839.

The second advantage of Stephen's system was that it enabled the civil service departments to acquire a genuine corporate identity and sense of purpose. The clerical hierarchy, structured in terms of function¹ and salary, was given a new apex in the permanent under-secretaryship. Stephen's scheme ensured that each head clerk was kept informed of all that passed in the office in relation to his division. Moreover his duty embraced the selection and presentation of the papers on which a final decision was to be made, and, as Taylor well knew, the selection of material² often constituted more than half the process of deciding. Consequently, although they lost the power to communicate directly with the political heads, the head clerks gained the right to play a definite role in the³ administrative hierarchy, a less arduous but not an inferior role.

The people adversely affected by Stephen's reforms were the clerks below the senior grade who were to be removed from the dispatch-writing line and might be confined to the functions of copyists or archivists, and, possibly, the parliamentary under-secretaries whose opinions were to be given only after the permanent under-secretary's and before those of the

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1. It was, of course a 'staff' post and therefore open to men outside the establishment but equally it was a civil service post which clerks might hope to fill. On Stephen's retirement clerks were considered before outsiders.
 2. Taylor, The Statesman, pp. 136-41.
 3. Taylor to Gladstone, 8 May 1846, B.M. Add. MS. 44364; Stephen to Smith, 20 May 1840, & Stephen to Russell, 29 Aug. 1840, C.O. 537/22, ff. 110, 122.

secretaries of state, so that they had neither the first nor the last voice. In practice, however, the system did not work entirely as intended. Since more work was done under the new system without substantial increases in personnel, the more responsible duties filtered down the ranks, particularly when illness or holidays temporarily carried off the senior officials.¹ The parliamentary under-secretaries were compensated too by being given an additional role, or the sole possession of a role hitherto much delegated - the public representation of the office. This was also one of Stephen's suggestions and sprang from his difficult experiences² dealing with the public in the period before 1836.

When the secretary of state was not personally involved, all callers at the office, whether in a private or public capacity, except colonial officials, were interviewed by the parliamentary under-secretary. This also helped to establish a barrier between the public side of the office and the private and bureaucratic side which was important since Stephen insisted upon absolute secrecy in relation to the latter, especially with regard to the examination of private documents.³ Stephen judged himself

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1. How extensive this became is clear from Stephen to Wilder, 7 Mar. 1839, & Stephen to Stanley, 28 Sept. 1842, C.O. 537/22, ff. 64, 130. See also Jadis & Halksworth to Stephen, 1 Apr. 1846, C.O. 537/22, f. 169.
 2. Stephen to Howick, 16 June 1845, Grey Papers, Stephen; Stephen to Gladstone, 30 Dec. 1845, B.M. Add. MS. 44363, f. 84; Stephen's Diary, entry for 24 Jan. 1846.
 3. Stephen to Hope, 9 Dec. 1841, N.L.S., MS. 3669, f. 233.

unfit for the task of interviewing suitors or complainants, partly because of his nervous loquacity which Taylor warned him was embarrassing for strangers, and partly because he was a man with too many enemies and did not relish the thought of presenting his views to the public under circumstances in which he might easily be subsequently misrepresented. In this duty, as in the results of official correspondence, the public responsibility for the conduct of office business would lie best, he¹ judged, with the parliamentary officials.

In other, more minor ways, Stephen left his mark on the functioning of the office machine. He did not, at least while in office, suggest a wholesale re-structuring of clerical business and such changes as were made in this sphere during his under-secretaryship generally originated with the secretaries of state in their efforts to conserve meagre departmental resources.² His desire to see the best men in the top positions was met indirectly by the creation of two offices in the senior grade in 1840 and 1843 and by the partial amendment of the rule on seniority promotions in 1839 to allow for promotions by merit when one candidate had a decided superiority over the others. This helped to bolster the 'intellectual' calibre of the office.³ He also encouraged, with

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1. Stephen to Gladstone, 30 Dec. 1845, B.M. Add. MS. 44363, f. 84.
 2. For example, Spearman to Sir George Grey, 4 Mar. 1836, C.O. 323/222, f. 177; Stephen to Treasury, 29 Aug. 1839, C.O. 323/226, f. 271.
 3. One was the chief clerkship, Stephen to Treasury, 18 Oct. 1839, C.O. 323/226, f. 282; the other was the precis writer, Stephen to Smith, 27 Jan. 1843, C.O. 878/2.

considerable effect, the growth of individual clerical specialisation. Specific duties over one field of office business would be assigned to a particular clerk. Here the most fruitful but by no means the only instances were James Spedding's control of parliamentary correspondence and T.F. Elliot's work on land and emigration problems which anticipated¹ by some years the creation of a separate Land and Emigration Board.

Curiously Stephen, always in the van of reform elsewhere, lagged behind in refusing to recommend the appointment of a senior Registrar to supervise the registration of departmental correspondence. Instead he preferred the work to be performed initially by the clerks in the various separate, clerical divisions and then to be set out in fair copy by a² specially appointed junior clerk. This was at least an improvement on the system as he found it and the funds for the junior clerk's salary were³ conceded only after several running battles with the Treasury. It was less than was required to keep complete records, but for Stephen it was enough. His own phenomenal memory, the long tenures of most of the senior

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1. For Elliot, see Stephen to Spearman, 9 Jan. 1837 & 22 Apr. 1837, C.O. 324/147, pp. 312, 342; for Spedding, Stephen to Wilder, 30 Apr. 1838, C.O. 537/22, f. 47; and Russell to Smith, 16 Oct. 1839, C.O. 537/22, f. 81; and for an early example of clerical specialisation, Stephen to Smith, 29 Sept. 1834, C.O. 323/218, f. 202A.
 2. Russell to Treasury, 17 Dec. 1839, C.O. 537/22, f. 89; Stephen to Halksworth 25 Nov. 1847, enclosed in Halksworth to Elliot, 29 Nov. 1847, Grey Papers, Colonial Office; minute on Gladstone to Stephen, 6 Apr. 1846, B.M. Add. MS. 44,364, f. 14.
 3. Stephen to Smith, 21 Sept. 1835, C.O. 537/22, f. 39; Stephen to Spearman, 30 Aug. 1838, C.O. 324/147, p. 378; Baring to C.O., 15 Nov. 1838, C.O. 323/224, f. 527.

clerks and the care with which the junior clerk who worked on the registers was chosen, all meant that the imperfect state of the registers¹ did not hinder business very much. Any lack of informality in keeping the registers was at least partially offset by the better ordering of the incoming papers with their standard forms and numbering, a reform for which Stephen may well have been responsible.² The serious weakness in his argument was that the creation of a new registrarship would probably not³ have involved much extra expense.

Once in operation, Stephen's plans required amendments. With the ever-increasing burden of work, and the provisions for vacancies occasioned by clerical secondments, holidays and illnesses, Stephen's scheme to separate the 'mechanical' from 'intellectual' labourers and to secure a sufficient supply of routine clerical assistants began to collapse only two years⁴ after it had been introduced. The only solution, as before, seemed to be to secure the Treasury's permission to employ extra occasional clerks as copyists outside the establishment.⁵ With unusual audacity,

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1. Russell's criticisms and those of the 1849 Commissioners suggest that the failing was more in theory than in practice: Russell to Treasury, 17 Dec. 1839, C.O. 537/22, f. 89; 'Report of the Committee of Inquiry into the Colonial Office, 1849', H.C., 1854, XXVII (1715), pp. 59-60.
 2. Stephen's circular, 1 Dec. 1841, C.O. 323/227, f. 334.
 3. 'Report of the Committee of Enquiry into the Colonial Office, 1849', p. 79.
 4. Stephen to Wilder, 30 Apr. 1838, C.O. 537/22, f. 47.
 5. Stephen to Spearman, 14 July 1838, C.O. 323/224, f. 237.

Stephen seized on this opportunity to return to his old idea of creating a copying class. His superiors cheerfully acquiesced in a programme which, as no doubt they were assured, would both save expense and solve¹ their difficulties without resorting to the cabinet.

In 1838, on the strength of a general contingency grant from the Treasury for extra copying, the scheme was informally instituted.² A head and deputy head copyist were appointed from two of the longest-serving occasional clerks and they were given charge of the recruitment and payment of such extra clerks as the daily amount of copying required once establishment copying resources had been exhausted.³ At Stephen's insistence, and to the detriment of their health as it proved, the copyists were given their own separate rooms in the damp and gloomy basement of the Office building. It was hoped that their physical separation from the rest of the officials would guard against the dangers that they might be used to relieve the establishment clerks of their routine copying duties or that they might become simply the bottom rung of the clerical hierarchy. Stephen was afraid that the establishment clerks would come to feel that copying

1. Stephen gives a history of the case in Stephen to Smith, 27 Nov. 1839, C.O. 878/2, item 11.

2. ^{STEPHEN TO SPEARMAN, 27 JULY 1838, C.O. 323/224, f. 237.}
 Spearman to Stephen, 11 Aug. 1838, C.O. 323/223, f. 234. See also Mayer to Stephen, 19 Jan. 1839, C.O. 537/22, f. 50.

3. Stephen to Wilder, 7 Mar. 1839, C.O. 537/22, f. 64; Stephen to Russell, 2 Nov. 1839, C.O. 537/22, f. 83, and Mayer and Smith's memorandum, 12 Mar. 1847, C.O. 878/2, item 33.

was beneath their dignity or that the copyists would come to demand continuous employment as a matter of right.¹ His precautionary measures, however, were only as strong as the men who operated them, and Stephen was always too trusting.

In 1839 scandal resulted. It was discovered that Mr. Miller, the head copyist, had obtained sums fraudulently by falsifying his returns and, when faced with this fact, he committed suicide.² This was a blow to Stephen and without his faith the copyist class might have been sacrificed and the department returned to its old haphazard methods. But he was determined to defend his creation: he appointed more trustworthy head copyists, chosen personally and with great care, and then produced a set of regulations designed to avoid the pitfalls to which the scheme had been liable.³ This headed off criticism and ensured that the copyist service would survive but by no means ended the controversy.⁴ The greatest care was required to ensure that further abuses were checked even though they might not always be prevented. Criticisms about the operation of the

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1. Stephen to Smith, 27 Nov. 1839, C.O. 878/2, item 11.
 2. Stephen to Russell, 2 Nov. 1839, C.O. 537/22, f. 83.
 3. Stephen to clerks, 4 Nov. 1839, C.O. 537/22, f. 87: Stephen to Smith 27 Nov. 1839, C.O. 878/2, item 11.
 4. Stephen's circulars, 18 Oct. 1842, 23 Oct. 1842, C.O. 878/2, items 37 and 38; Compton to Stanley, 14 Oct. 1844, C.O. 523/1A, f. 209; Stephen's circular, 31 Dec. 1846, C.O. 878/2, item 31.

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service from secretaries of state had to be met. Even so the copying department proved its utility so well that, in 1849, when the desirability of separating the civil service into 'mechanical' and 'intellectual' grades was endorsed by the parliamentary commissioners investigating the Colonial Office, it was clear that Stephen's copyists had set a pattern for the whole government service.

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Stephen's achievements in a short period had been remarkable. He had produced an office machine in which the modern conception of the division between parliamentary heads and subordinate civil servants was perfectly exemplified. By the invention of a copyists department he had gone some way towards establishing a dichotomy between 'intellectual' and 'mechanical' grades in the civil service. His reforms made it possible for the office machine to cope with an increasing volume of work without a substantial increase in personnel. These achievements must be set against any defect which his methods involved. That such defects did exist, of course, is unquestionable, though not always in the way that his critics have claimed. It is true that Stephen made the office machine more 7. cumbersome, but he did so in order to make it more sophisticated, more

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1. Minutes on Stephen's memorandum, 27 Nov. 1839, C.O. 878/2, item 11; Stephen to Russell, 6 May 1840, C.O. 537/22, f. 104; Compton to Stanley, 14 Oct. 1840, C.O. 523/1A, f. 209.
 2. It was pronounced 'absolutely essential' by 1839; Stephen to Smith, 27 Nov. 1839, C.O. 878/2, item 11. This view is borne out in Mayer to Smith, 12 Mar. 1847, C.O. 878/2, item 33 and the 'Report of the Committee of Enquiry into the Colonial Office 1849', H.C. 1854, XXVII (1715), pp. 50-4, 61-2.

capable of tackling a great deal more work and doing so systematically.

One of the great defects of Stephen's administration, it has been maintained, was that he outlawed informal procedures for conducting business, such as verbal consultations, and so decelerated the process of reaching decisions.¹ Certainly he preferred "words written to words spoke" (he would have loathed the telephone) and he did attempt to instil this preference even in his superiors. But this is defensible. Verbal agreements, as he recognized, are indefinite and are much more easily open to misinterpretation and much less easy to recall exactly.² He was not against the use of short notes or verbal communications or any method which increased consultation or provided technical assistance except when this was done at the expense of what he considered the primary goal - good order and method. It was to achieve this goal that he was prepared to err on the side of formality and completeness.³ Taylor said of him that as captain of the office ship he "was never tired of circumnavigation, though sure enough of steering into the right port at last."⁴

1. C.H.B.E., III, p. 721.

2. Hope to Stephen, 16 Jan. 1846, Stephen Papers, separate letters. See also Stephen to Howick, 16 June 1845, Grey Papers, Stephen.

3. This was particularly true of his own preserve - departmental organisation: Stephen to Smith, 21 Sept. 1835, C.O. 537/22, f. 39; Senior Clerks to Stephen 20 Jan. to 25 Jan. 1841, C.O. 323/227, ff. 169-178; minute on Hill to Colonial Office, 12 Dec. 1838, C.O. 323/224, C. in C. Stephen hated 'tinkering': Stephen to Wilder, 6 Aug. 1835, C.O. 7/45.

4. Taylor to Spring Rice, 31 Oct. 1847, Taylor Papers, MS. Eng. letters d. 26, f. 43.

It must be allowed that this was preferable to the laissez faire confusion of the Hay era and was partly made inevitable by the increasing complexity¹ of government in the mid-nineteenth century.

Other charges against his business methods have rather less validity. To accusations of bureaucratic delays, Stephen always insisted that the fault lay not with the Colonial Office but with the other offices concerned² with colonial government. There is much truth in this. Before 1830 most government departments with colonial interests possessed their own³ officers in the colonies and corresponded directly with them, but in the course of the 1830s, with increasing vigour after Stephen took up the reins, the Colonial Office attempted to restrict the channel of colonial correspondence to communications between the governors and the colonial secretary of state.⁴ This meant that on the one hand the governors had to act as the agents for all colonial officials and on the other the Colonial Office had to consult many departments before replying to a colonial dispatch. In time they did so even without a specific reference

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1. Dr. Murray cites a case of confusion[?] under Hay which is worse than any under Stephen: Murray, The West Indies, p. 124.
 2. Minute on Trevelyan to Stephen, 24 Dec. 1840, C.O. 323/226, f. 243, blames the Treasury; and minute on Horton to Lack, 23 June 1826, C.O. 323/205, f. 201, blames the Board of Trade.
 3. Young, The Colonial Office, pp. 172-3.
 4. E.g., Macdonald to Grey, 24 July 1847, No. 98, minute, C.O. 267/198.

in order to secure specialist advice or to maintain consistency throughout the government.¹ The problem was again one of a desire for order and sophistication resulting in increasing the complexity of administration.

In addition, it was during this period that the Treasury tightened up its control over colonial finances, insisting on its right to sanction or reject every project for the expenditure of public finances.² Stephen was forced, unwillingly, to acquiesce but, as a believer in professionalism and the necessity of sound technical advice, he contributed as much as anyone to the further proliferation of government business by this habit of sub-contracting to other departments.³ It is also true that the Stephen scheme of departmental procedure made it quite impossible for even the Colonial Office itself to return an immediate answer to a correspondent.⁴ But, of course, neither he nor the office generally can be blamed for the criminal delays of up to two years which took place at the other departments since this was caused basically by the low priority rating given to colonial over domestic business.⁵ Stephen did make representations against

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1. E.g., Admiralty to Colonial Office, 15 Feb. 1836, minute, C.O. 323/222, f. 11.
 2. Young, The Colonial Office, pp. 184-96, 202-40.
 3. E.g., Minutes on Chichester to Stanley, 1 Jan. 1843, No. 93, and Chichester to Stanley, 1 Feb. 1843, No. 97, C.O. 295/139.
 4. Each step took about a day making the minimum time about a week.
 5. Knaplund, James Stephen, pp. 41-2; C.H.B.E., III, p. 715; Hall, The Colonial Office: A History (London, 1937), pp. 30-31. Stephen claimed that only one clerk at the Treasury worked on colonial business; Stephen's minute on Trevelyan to Stephen, 24 Dec. 1840, C.O. 323/226, f. 243. See also J.S. Galbraith, Reluctant Empire (Berkeley, 1963), pp. 22-6.

the delays, but he was ignored.¹

The least justifiable charge which has been raised against him is that Stephen was a dictator in the Colonial Office.² He accepted, even rejoiced in, the fact that the political heads were his superiors and, therefore, he hoped, the responsible officers. The office system which he established was designed to ensure that an under-secretary could not give orders to his parliamentary under-secretary or his secretary of state. The political chiefs were required to give the final decision on every problem down to the most trivial.³ In practice they reached their decisions only after seeing his opinion on the problems presented to them and they could not hope to match his knowledge of detail nor to escape from the authority with which he presented the evidence. But to counter-balance his influence the political heads had their own private sources of information from which the permanent under-secretary might be excluded.⁴

Stephen influenced not by dictating but by persuading. As each

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1. Minute on Spearman to Stephen, 3 Aug. 1838, C.O. 323/224, f. 231; and on Trevelyan to Stephen, 24 Dec. 1840, C.O. 323/226, f. 243.
 2. This was the main charge which Wakefield made: see E.M. Wrong, Charles Buller and Responsible Government, pp. 144-150.
 3. Cabinet Memorandum, 1839, PRO 30/22/3C; Stephen to Gladstone, 30 Dec. 1845, B.M. Add. MS. 44363, f. 84.
 4. Many secretaries, for example, Russell, corresponded privately with governors: see his papers PRO 30/22/3C. Gladstone also did so.

secretary of state testified in turn, Stephen, though naturally reserved and hesitant in putting forward his own views, was frequently not only the best but also the only authority available to them on particular colonial problems.¹ They were bound to consult him: he was bound to defer to their final judgements. Much of the success of office business, therefore, including the plans for the reform and re-organization of the department, depended on the relations between Stephen and the secretaries of state.

(III) Stephen and his Superiors.

Of all the politicians whom he served after 1836, Stephen was closest to Glenelg and Sir George Grey. From the freedom with which he departed² from the strict official rules of etiquette when dealing with them and from their eager efforts to consult him on every subject it is obvious³ that there existed among them an implicit understanding.⁴ Undoubtedly this was partly based on personal regard - they shared a great deal including their Evangelical upbringing and their activities on behalf of

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1. See the testimonials from two very different sources - Stanley and Grey: Stanley to Stephen, 23 May 1844, Stephen Papers, separate letters; Grey to Stephen, 25 Feb. 1845, Stephen Papers, loose leaf letters.
 2. Stephen to Howick, 1 July 1837, Grey Papers, Stephen.
 3. Grey to Howick, 29 Aug. 1836, Grey Papers, Sir George Grey.
 4. Governors consulted all three of them to be fully informed: Reddie to Gladstone, 28 Dec. 1836, B.M. Add. MS. 44355, f. 147.

the Church Missionary Society - and also partly involved a certain political sympathy.¹ But it is wrong to imagine that their interests were identical. This common misunderstanding probably stems from a private letter written by Stephen after Glenelg's retirement in which he referred to his former superior as "the most laborious, the most conscientious and the most enlightened"² of Colonial Secretaries - a verdict which stands in glaring contrast to the then current popular view of him as a twittering somnambulist.³ The letter deserves close attention. Stephen's sympathetic remarks were sincere but they are typically barbed. The words were obviously carefully chosen. 'Laborious' might imply indecisiveness, 'conscientious' might also mean over-scrupulousness and 'enlightened' might represent at times the characteristic of the visionary. Glenelg, the letter goes on to explain in a less well known and more cynical passage, was a man of morals who deserved praise; but moral refinement was not a quality which would ever be appreciated in Downing Street though Stephen himself might still be humane enough to recognize it in another.⁴ In

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1. Glenelg to Stephen, 17 Nov. 1835, Stephen Papers, separate letters; Stephen to Howick, 26 Oct. 1835, Grey Papers, Stephen; Stephen to Macvey Napier, 22 Mar. 1838, Stephen Papers, loose leaf letters; Wilder to H. Stephen & Glenelg to Stephen, 17 Aug. 1838, Stephen Papers, separate letters.
 2. Stephen to Mrs. Austin, 12 Feb. 1839, Stephen Papers, Journal of letters to various correspondents, 1807-1839. C.E. Stephen, Sir James Stephen, pp. 56-57.
 3. Galbraith, Reluctant Empire, pp. 19-20. See also Edith Dobie, 'The Dismissal of Lord Glenelg from the Office of Colonial Secretary', Canadian Historical Review, XXIII, 1942, No. 3, pp. 280-5.
 4. Stephen to Mrs. Austin, 12 Feb. 1839, Stephen Papers, Journal of letters to various correspondents, 1807-1839.

fact, Stephen had found Glenelg a frustrating superior.¹ After Glenelg's resignation, when all those who disliked his administration laid their complaints at Stephen's door, he came to like him even less.²

Stephen neither pressed policy when Glenelg was secretary of state nor blindly and slavishly followed his superior.⁴ He was more tolerant of Glenelg's views than he later admitted but he frequently disagreed with him and was overruled.³ His strength lay in his superior's goodwill. When decisions were taken against his judgement, Stephen seldom hesitated to make his views known to Glenelg so as to face his superior with the awkward necessity of having to contradict a well-informed subordinate.⁵ It is probably this which explains the complete triumph of Stephen's views on office reorganization during the years of Glenelg's secretaryship.

Lord Normanby, an experienced statesman with a reputation as a liberal,⁶ was in office for too short a time to make much impression on the civil servants. His position was peculiarly difficult. Lord Melbourne's government to which he belonged had become highly unstable, its fall being

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1. Stephen to J.C. Stephen, 18 Nov. 1837, Stephen Papers, Journal to J.S.C., 1816-1845; Stephen to Napier, 20 Sept. 1838, B.M. Add. MS. 34619, f. 395.
 2. 'Glenelg' had become a term of abuse by 1846: Stephen's Diary, entry for 12 Mar. 1846.
 3. Stephen to Wilberforce, 10 May 1837, Stephen Papers, Journal of letters to various correspondents, 1807-1839.
 4. Stephen to Mrs. Austin, 28 Oct. 1837, Stephen Papers, ibid.
 5. Stephen to Howick, Feb. 1845, Grey Papers, Stephen.
 6. Russell to Grey, 27 Aug. 1839, Grey Papers, Russell.

rumoured daily as ministers vied for position.¹ Normanby was not left undisturbed, either, as Russell interfered increasingly with the conduct of colonial government.² Nonetheless Normanby's parliamentary under-secretary, Henry Labouchere, was in office long enough to remember how dependent they both were on Stephen's daily contribution.³ Stephen's relations with them, however, got steadily worse throughout their six months in office. Normanby began well by cataloguing the main debatable colonial issues⁴ and then failed to do anything about them. Stephen, as usual with a dilatory superior, was forced into extra work, preparing the outstanding questions and reserving them for the secretary's opinion,⁵ only to find that Normanby had decided that colonial business was best settled, as he later told Russell; "by postponement....a process to which you will find after a little practice many colonial questions are not inapt to yield".⁶ Doubtless, Stephen felt disillusioned. To make matters worse, Normanby's

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1. Taylor to G. Taylor, 22 Apr. 1839, Taylor Papers, MS. Eng. letters d. 9, f. 191.
 2. He had intended to take the office himself: Russell to Howard, 26 Feb. 1839, PRO 30/22/3C. See also Russell to Grey, 27 Aug. 1839, Grey Papers, Russell.
 3. Labouchere to Stephen, 11 Apr. 1856, Stephen Papers, separate letters.
 4. He later handed his list (with comments) to Russell: Normanby to Russell, 2 Sept. 1839, PRO 30/22/3D.
 5. Stephen to Napier, 10 Aug. 1839, B.M. Add. MS. 34620, f. 327.
 6. Normanby to Russell, 2 Sept. 1839, PRO 30/22/3D.

secretaryship was a period when the fierce press attacks on Stephen were¹ at their height but he received no support from his superiors. It is not surprising that at this time he applied for a transfer to another² department and even considered resignation. But, perhaps with the knowledge that the secretaryship would be short-lived, he finally decided to remain after receiving letters of support from his friends, both³ political and private.

Russell, who succeeded Normanby, was more willing to act decisively⁴ and, in consequence, Stephen enjoyed much better relations with him. But they were never very close. After Stephen's resignation, Russell gave an opinion of his former under-secretary which was far from charitable:

"It was the fault of Stephen that instead of being under-secretary for the Colonies he was more under-secretary against the colonies.....If we cry stinking fish, it is no wonder our customers are few".⁵

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1. He turned elsewhere for support: Stephen to Aberdeen, 31 May 1839, Stephen Papers, Journal of letters to various correspondents, 1807-1839.
 2. Taylor to G. Taylor, 1 Mar. 1839, Taylor Papers, MS. Eng. misc., f. 58, f. 10; Stephen to Aberdeen, 31 May 1839, Stephen Papers, Journal of letters to various correspondents, 1807-1839.
 3. Aberdeen to Stephen, 4 June 1839, Stephen to Mrs. Austin, 12 Feb. 1839, Stephen to H. Venn, 3 Apr. 1839, and Stephen to Mrs. Hodson, 18 Apr. 1839, Stephen Papers, Journal of letters to various correspondents, 1807-1839.
 4. Taylor to Villiers, 14 Oct. 1839, Taylor Papers, MS. Eng. misc., f. 58, f. 9.
 5. Russell to Grey, 16 Mar. 1848, Grey Papers, Russell.

This statement and Russell's behaviour after 1847 in rejecting Grey's attempts to retain Stephen's services in some new capacity reveal an unexpected bitterness, even vindictiveness, in their relationship.

Russell explained that the reason for this ill-will was that no politician who wished to make friends could afford to court a man as unpopular as

¹ Stephen. One cannot avoid the impression that this belief derived partly from Russell's two years in office when, in Melbourne's unstable ministry, he had borne part of the brunt of the constant attacks of the ² Colonial Reformers on Stephen.

Russell's harsh opinion of Stephen is in contrast to Stephen's generous opinion of Russell for he remembered most his superior's "dominant ³ soul". Stephen always appreciated a secretary who would give him a

lead and clearly admired Russell's determination. But though he revered the "dominant soul" he was not particularly impressed by Russell's understanding. ⁴ In office, their personal differences were kept in check.

Two thorough professionals in their own spheres, they worked out a useful ⁵ scheme of give and take which largely satisfied both. There is no doubt

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1. See J.M. Ward, 'The Retirement of a Titan: James Stephen, 1847-50', Journal of Modern History, XXXI, iii, 1959, pp. 195, 201, 203.
 2. Stephen to Napier, 20 Sept. 1839, B.M. Add. MS. 34620, f. 389.
 3. Stephen's Diary, entry for 22 Jan. 1846.
 4. Stephen's Diary, entry for 25 Jan. 1846.
 5. Stephen to Napier, 18 Oct. 1839, B.M. Add. MS. 34620, f. 441.

whatever that Russell valued Stephen's professional abilities and deferred to him on many occasions even against the opinion of his rather dogmatic¹ parliamentary under-secretary, Robert Vernon Smith. When a tempting vacancy occurred in the assistant under-secretaryship at the Treasury, it was Russell who personally, with the aid of the Prime Minister, persuaded Stephen to forego the chance of a quieter life and to remain with him at the Colonial Office.²

Russell, who wanted his office to stand well in the public eye,³ showed considerable interest in the subject of further office reorganization. Despite the improvements from 1836 to 1838 the leading officials were still too busy to give any time to concerns of philosophical government.⁴ Stephen had again turned his thoughts to the problem and his ideas were not yet exhausted. Perhaps encouraged by Russell's interest, he produced a new plan for aiding the department by appointing to it an advisory board of distinguished men with professional interest in or experience of colonial life - a body rather like in many ways the 17th century Board of

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1. Granville to Dilke, (Nov. 1880), B.M. Add. MS. 43878, f. 191. A typical example can be found in the minutes on Stephen to Treasury, 6 Dec. 1839, C.O. 323/226, f. 294.
 2. Stephen to Russell, 4 Jan. 1840, PRO 30/22/3D; Melbourne to Stephen, 8 Jan. 1840, Stephen Papers, loose leaf letters.
 3. For example, Russell to Smith, 16 Oct. 1839, C.O. 537/22, f. 81.
 4. Stephen to Wilder, 31 Dec. 1840, C.O. 537/22, f. 127.

Trade. This would not only provide for long-term planning but would also supply the first-hand knowledge of colonial affairs which the office lacked. Russell thought the idea too radical and too expensive and rejected it out of hand.¹

*But 1848 + 1849
renewed temporarily*

Russell's own suggestions for strengthening the top ranks of the office were much less sweeping but much more practicable. He felt there was a case for appointing a third or assistant under-secretary: but the time was not yet ripe. Since the holders of the permanent under-secretaryship and the senior clerkships were so able it seemed unnecessary to do more in the first instance than re-create the old position of chief clerk to allow one of the senior clerks to supervise and co-ordinate some of the routine work.² His more solid achievement - the creation, in 1840, of the Land and Emigration Commission to handle the specialised problems relating to land sales and emigration - did not, in fact, deprive the Colonial Office of control of one branch of its business but merely created a technical advisory service whose decisions continued to be examined, and initially to be questioned, in the Colonial Office.³ Stephen played a big role in bringing about both of these arrangements but the form they took

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1. J.M. Ward, J.M.H., XXXI, iii, 1959, p. 195; Russell to Grey, 11 Nov. 1847, Stephen to Grey, 10 Nov. 1847, Grey Papers, Russell & Stephen.
 2. Russell to Treasury, 17 Dec. 1839, C.O. 537/22, f. 89.
 3. Commission to Villiers, Elliott and Torrens, 10 Jan. 1840, C.O. 381/26.

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probably owed more to Russell than to him.

The appointment of Stanley as secretary of state in 1841 must have upset Stephen after their unfortunate troubles during Stanley's first secretaryship in 1833-4. But, surprisingly, since he never learned how to protect himself from his detractors, Stephen succeeded in establishing a fairly good working relationship with him. It was, admittedly, a relationship of superior and subordinate in a way that it never was with any other secretary but Stephen appeared to derive more than merely philosophical consolation from being forced to remain in the background. If Stanley's views on the proper relationship between secretary and permanent under-secretary were rather old-fashioned, they had at least the unquestionable merit of ensuring that the secretary could be pressed to assume responsibility for answering criticisms directed at his subordinates.² Only when he failed to do so did Stephen rebel.³

Other factors helped to make life bearable. Stanley's young

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1. Stephen's role in the origin of the Land and Emigration Commission has recently been examined in Peter Burroughs, Britain and Australia 1831-1855, (Oxford 1967), pp. 217-8. Stephen's disapproval of the abolition of the chief clerkship in 1833 is on record: Stephen to Treasury, 6 Dec. 1839, C.O. 323/226, f. 294. Nonetheless Stephen did not approve of Russell's re-arrangement to create a registry department: minutes on Porter to Smith, 10 Dec. 1840, C.O. 323/226, f. 74.
 2. Stanley to Stephen, 23 May 1844, 6 June 1844 & 7 June 1844, Private, Stephen Papers, separate letters.
 3. Stephen to Grey, n.d. Feb. 1845, Grey Papers, Stephen.

parliamentary under-secretary, George Hope, proved to be a good friend and an eager disciple of the permanent under-secretary, which largely offset his superior's lofty indifference.¹ When there was no bitter issue like slavery to quarrel over even that indifference was no longer so painful. Stephen looked forward himself to a date not long distant when he might hope to retire from the political squabbles with, on Stanley's assurance, some suitable reward for his services.² In such circumstances the future seemed more secure with a remote but powerful superior than with an intimate but ambitious politician. Stephen had "learned to like and...come to desiderate an aristocratic bearing".³ Stanley, whatever his faults, was still the epitome of the aristocratic statesman.

Naturally they had their differences and there were times, though remarkably few, when Stephen felt irked at being left out of ministerial confidence;⁴ but on most matters when they disagreed a compromise was arranged to prevent Stephen feeling too aggrieved. Stanley had none of Stephen's concern for "philosophical government", for example, but he was prepared to join him part of the way in the cause of office reform. On Stephen's

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1. Hope to Stephen, 16 Jan. 1846, Stephen Papers, separate letters.
 2. Stanley to Stephen, 2 Nov. 1847, Stephen Papers; Stephen to Grey, 12 Oct. 1847, Grey Papers, Stephen.
 3. Stephen's Diary, entry for 28 June 1846.
 4. E.g., minutes on Carr to Russell, 16 Aug. 1841, C.O. 267/165, no. 32.

recommendation, Stanley proposed to create the office of assistant legal counsel. In return for immediate help with his legal duties, Stephen would train the assistant counsel in the work of the office. This would¹ make the office more prepared for Stephen's eventual retirement. The plan was postponed, partly because of Treasury opposition and partly because Stanley, on encountering opposition, tried, foolishly, to accomplish the same object by farming out colonial legal duties to other government departments. In the face of Stephen's opposition to this alternative² suggestion, he abandoned the subject entirely.

Where Stanley interfered less the achievements were more positive. He delegated to the permanent under-secretary the responsibility for what³ was usually called "the discipline of the office". This meant simply ensuring that all of the clerks performed their share of the work and that they attended regularly as required, taking their leaves of absence and holidays so as to cause minimum inconvenience to the office as a whole. Because of the small number of officials and the great seasonal pressure of work at the Colonial Office, these apparently trivial problems were, in

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1. Minutes on Trevelyan to Stephen, 26 Mar. 1842, & Bethune to Hope, 11 Aug. 1842, C.O. 323/228, ff. 108, 183.
 2. Minutes on Lefevre to Stanley, 19 Feb. 1845 and Trevelyan to Stephen, 28 Mar. 1845, C.O. 323/230, ff. 248, 250.
 3. This responsibility was first mentioned on Stephen's appointment as assistant under-secretary in 1834: Order in Council, 17 Sept. 1834, C.O. 878/1, f. 107.

fact, a constant headache, seriously affecting the department's working capacity.¹

The first systematic attempt to deal with the problem of office discipline had been made by Stephen when assistant under-secretary in 1834. He had then laid down certain principles for the office to follow. Firstly, it was made a rule that each member of the office was entitled to eight weeks holidays each year during a specified part of the year. The actual dates were to be settled by the assistant under-secretary in advance in order to ensure that a minimum number of staff in each division was always available throughout the whole year. Where the requested dates overlapped seniority would prevail. Secondly, an attendance register was instituted and it was declared that clerks who were negligent or unpunctual might² forfeit their right to their holiday.

This scheme worked very badly, perhaps because it centred on the role of the assistant under-secretary - a position abolished in 1836. Some clerks continued to take their holidays when they liked and refused to perform routine copying. As a result the diligent clerks were overworked, arrears piled up and the demand for extra copyists increased.³ Stephen,

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1. Stephen to Stanley, 28 Sept. 1842, C.O. 537/22, f. 130.
 2. Spring Rice's memorandum, 7 Oct. 1834, C.O. 537/22, f. 30 and enclosures.
 3. Stephen to Wilder, 31 Dec. 1840, C.O. 537/22, f. 127.

with some justice, blamed the senior clerks who failed to keep a rein on¹ their juniors and allowed office discipline to become very lax. He also recognized that the failure was partly owing to his own lack of firmness and authority in dealing with his subordinates:

"Government is not my gift, I mean the rule of persons near about me. I want affability, gravity and awfulness and am neither popular nor formidable in the Colonial Office".²

Stephen would never have made a politician. But prompted by Stanley to assume full responsibility, he resolved on several changes designed to offset these weaknesses.

He had already decided that a hierarchical structure of control was necessary. The senior clerks must take the responsibility for the conduct and claims of their junior clerks.³ In 1842 he carried this further by insisting that in addition to clerical claims for leaves of absence requests for extra copying must be certified by the relevant senior clerks and countersigned by himself.⁴ This stopped the worst abuses but could not solve the whole problem. In January 1843 a more thorough reform was attempted when the chief clerk, George Wilder, retired.

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1. Stephen to Stanley, 28 Sept. 1842, C.O. 537/22, f. 130.
 2. Stephen's Diary, entry for 17 Jan. 1846.
 3. Stephen to Wilder, 31 Dec. 1840, C.O. 537/22, f. 127; Stephen to Smith, 3 Apr. 1842, C.O. 323/228, f. 344.
 4. Stephen's circular, 18 Oct. 1842 (?), C.O. 878/2, item 37. The binder suggests 18 Oct. 1847 as the date.

Russell, in urging the recreation of the chief clerkship in 1840, gave as one of its duties "the general cognizance of the Department" which he said was related to "the order and regularity of the service".¹ This appears to have been mainly a reference to the chief clerk's superintendence² of office finance and procedure rather than to office discipline. When Wilder retired, however, Stephen felt that the functions of the office ought to be enlarged. The new chief clerk, Peter Smith, was a talented and very experienced clerk who had become an expert on the office's military questions and on the orders of knighthood within the secretary of state's gift.³ It was obviously desirable that Smith should continue even in his new capacity as special adviser to the secretary of state on these rather technical questions. In addition, Stephen asked him to undertake an extra function, viz.;

"the discipline of the office, understanding by that term the duty of enforcing the rules which are, or shall be, established for the regular dispatch of the public business of this Department".

To cope with these increased duties the new chief clerk was provided with an assistant. Venturing beyond this general central control, Stephen,

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1. Drafts of Colonial Office to Treasury, 16 Jan. 1840, C.O. 323/226, f. 311.
 2. Young, The Colonial Office, pp. 29-30.
 3. In 1843 he was one of the longest-serving clerks and his expertise on military questions went back to his service with that side of the secretary of state's duties during the Napoleonic War: Stephen to Smith, 27 Jan. 1843, C.O. 878/2.

with Stanley's entire concurrence, laid down a series of specific rules governing the hours of attendance for clerks and the conditions for the requisitioning of extra copying assistance.¹

There was nothing unique or particularly novel in these changes. Every government department had to reduce its office discipline to a series of rules and to establish authorities to exercise them. But Stephen's plan had the special merit of being adapted to the materials at hand. Smith was experienced in disciplinary matters and being in daily touch with the clerks was better able to prevent backsliding than the remote and austere permanent under-secretary.² If it is also true that its success was merely relative, the plan was obviously capable of extension and amendment.³ It undoubtedly marked an important stage in the growing professionalism of the office machine.

An improvement in office discipline was one method of increasing efficiency: another was to make the office machine more sophisticated by supplying specialised services. The adaptation of the functions of the chief clerkship was not the only example of how this was done. Stanley

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1. Stephen to Smith, 27 Jan. 1843, C.O. 878/2, minutes.
 2. Stephen himself fully appreciated his ineffectiveness: Stephen to Stanley, 28 Sept. 1842, C.O. 537/22, f. 130.
 3. Compton to Stanley, 14 Oct. 1844, C.O. 523/1A, f. 209, minutes. One of many examples of later amendments can be found in Stephen's circular, 31 Dec. 1846, C.O. 878/2, item 31.

acted as catalyst on another occasion by refusing to read the voluminous papers connected with the cases sent to him for verdict. Instead, he forced Stephen and the clerks to present him with a precis of the arguments in each case.¹ Because of this extra and difficult work, it seems to have occurred to Stephen that the old office of precis writer (abolished in 1833) was much needed. On the other hand, the registry department which had been augmented by Russell in 1840 remained consistently under-employed.² Stanley was brought to agree and in 1843 the registry department was cut down from four to two clerks and from this saving the post of precis writer was created as head of a new division of miscellaneous correspondence.³ Again Stephen built well. Even though this separate division collapsed, the office of precis writer survived and grew in importance.⁴ Its creation illustrates very well how Stephen could adapt his ideas to accommodate his secretary of state and thereby successfully advance the cause of office reform.

Gladstone, who succeeded Stanley, was already an old acquaintance of Stephen's. They had worked together when Gladstone served as Lord Aberdeen's parliamentary under-secretary in 1835 and ever since Stephen

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1. Stephen to Smith, 3 Apr. 1842, C.O. 323/228, f. 344.
 2. Minute on Porter to Smith, 10 Dec. 1840, C.O. 323/226, f. 74.
 3. Stephen to Smith, 27 Jan. 1843, C.O. 878/2.
 4. Pugh, C.H.B.E., III, p. 729.

had kept a benevolent eye on Gladstone's political progress.¹ By the time Gladstone arrived as head of the office, however, both men had changed a great deal. Stephen was no longer the enthusiast; Gladstone no longer the student. After four years of directing from the wings Stephen was determined not to return to the glare of the footlights.² After his successes at the Board of Trade, Gladstone was ambitious and determined to leave his mark on colonial policy.³ Personal differences had also begun to divide them. In the 1830s Stephen had admired Gladstone's concern for the Church and for political morality⁴ but the growth of the Oxford Movement had come between them, as Gladstone was an admirer while Stephen disliked it.⁵ Since for both men religious feeling ran deep, this was an ominous development.

But no-one could have predicted how bad their relations were to be. On the surface they just managed to appear reconciled but underneath they felt a growing mutual antipathy. When Gladstone left the office after

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1. Stephen to Gladstone, 3 Oct. 1837, B.M. Add. MS., 44355, f. 257; Stephen to Gladstone, 18 Apr. 1838, B.M. Add. MS., 44356, f. 45.
 2. Stephen to Gladstone, 30 Dec. 1845, B.M. Add. MS., 44363, f. 84.
 3. See Paul Knaplund, Gladstone and Britain's Imperial Policy, (London, 1927), pp. 1-53.
 4. Stephen to Napier, 27 Dec. 1838, B.M. Add. MS., 34619, f. 579.
 5. For Gladstone's position, see John Morley, The Life of William Ewart Gladstone, I, pp. 303-26. For Stephen, Stephen to Napier, n.d., Stephen Papers, on 'Newmanism'.

only six months, "with a shout of joy" according to Paul Knaplund,¹ he complained that Stephen had proved "unmanageable". But this was complimentary language compared to that which Stephen had used of him. In a diary which he kept for five months from January 1846, Stephen recorded the whole course of this alienation. On the day of Gladstone's resignation, he poured out his final verdict on his superior in a great emotional torrent. Gladstone displayed:

"a want of magniminity and of all other imperial virtues, microscopic in his views and in his ways, too civil and not quite civil enough, something of a Jesuit in manner and address, subtle almost to a disease, there is neither force, nor expansion, nor grace, nor dignity, nor high courage, at least none of these things make themselves manifest if there they are". 2

This violent dislike can only be explained by Gladstone's conduct in office and his treatment of Stephen. Gladstone was not content to listen to his permanent under-secretary before making up his mind on an issue and he seemed quite determined to rush into suggested solutions to half understood problems. Stephen was forced into the preparation of extra memoranda:

"to convince my new master that he cannot govern colonies by bestowing his subtlety and fostering advice on them, and treating them like children". 3

What was equally embarrassing for Stephen, when his rashness was pointed out to him. Gladstone accepted the criticisms "with an almost painful

1. Knaplund, Gladstone, p. 53.

2. Stephen's Diary, entry for 28 June 1846.

3. Stephen's Diary, entry for 13 Jan. 1846.

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docility".

Stephen's harsh verdict on Gladstone is neither inexplicable nor altogether unjustified. Gladstone's only earlier major office, the Presidency of the Board of Trade, had established his business methods as well as his reputation. But the Board had clearly not developed an administrative routine during his time there and, since it was a largely partisan body, Gladstone dispensed with its permanent secretariat in working out his own policy.² Unfortunately, he failed to appreciate that conditions were very different at the Colonial Office where the civil service had become an integral part of the administrative machine and where the problems were of great complexity and difficulty.³ Even if he had realized it Gladstone's inadequacies as a manager of men would have caused difficulties in an office with a prima donna like Stephen.⁴

There were also particular difficulties such as the disparity in their ages - Stephen was now 57, Gladstone twenty years his junior, by far the youngest man Stephen had served. Gladstone, a career politician, also lacked the aristocratic bearing that Stephen had come to cherish. He had also a most unfortunately loose style of expression which irritated the

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1. Stephen's Diary, entry for 14 Jan. 1846.
 2. Lucy Brown, The Board of Trade and the Free Trade Movement, 1830-42, (Oxford, 1958), pp. 225-31.
 3. A point Taylor grasped; Taylor, The Statesman, chap. xx, pp. 98-101.
 4. As they consistently did in his later career: Philip Magnus, Gladstone: Biography, (London, 1954), pp. 346-7.

permanent under-secretary. Worst of all, he became increasingly attached¹ to the ideas of the Colonial Reformers - Stephen's inveterate enemies. Nothing was calculated to alarm Stephen more than the fear that his superiors would truckle to Wakefield. On this issue he was prepared to² withdraw his services entirely.

The unfortunate relations with Gladstone might have been offset by a tactful and talented parliamentary under-secretary, as Hope had shielded Stephen from Stanley. In this respect Gladstone's choice of his brother-in-law, Lord Lyttelton, proved doubly unfortunate. Lyttelton was too young and inexperienced to have been of any help in office business; and too interfering and supercilious to have been merely innocuous.³ He was quite unable to cope with the torrents of despatches which rained on his desk and, after only three days in the office, felt compelled by exhaustion to take a holiday.⁴ To the 'seasoned roadster' like Stephen, the collapse appeared effete and reprehensible and it was almost two months before he could bring himself to treat his parliamentary colleague seriously.⁵

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1. Knaplund, Gladstone, pp. 41, 47-8; Stephen's Diary, entries for 16 Jan., 22 Jan. & 26 Jan. 1846.
 - 2.. Stephen's Diary, entry for 12 Mar. 1846.
 3. Stephen's Diary, entries for 9 Jan. & 13 Feb. 1846.
 4. Stephen's Diary, entries for 12 Jan., 19 Jan., 30 Jan., 4 Feb., 12 Feb., 1846.
 - 5.. Stephen's Diary, entry for 27 Feb. 1846. See also Stephen to Napier, 10 Jan. 1846, B.M. Add MS. 34626, f. 21.

Fortunately for Stephen, Lyttelton also took his rebukes in good part.¹

Stephen's final impression was of "a great rude boy - but a clever one".²

Despite these difficulties, Gladstone did leave his mark on the office machine for it was under his auspices that the assistant under-secretaryship which Russell had contemplated and Stanley partially endorsed was finally created. It may explain a good deal about their relationship that Gladstone handled the matter entirely on his own. Certainly Stephen was consulted, his ideas were utilised to the full and he was kept informed of his superior's intentions, but to a remarkable extent the achievement was Gladstone's alone.³

Within a month of his arrival as secretary of state, Gladstone allowed a rumour that he intended to re-organise the whole structure of the office to be spread through the office grapevine.⁴ In doing so he committed a major blunder because he roused expectations on the part of the clerks and of the senior officials which he was not able to satisfy. The re-organisation of the office was, by 1846, one of the thorniest, most delicate problems which a secretary of state could choose to tackle. The

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1. Stephen's Diary, entry for 13 Mar. 1846.
 2. Stephen's Diary, entry for 28 June 1846.
 3. Stephen's Diary, entries for 25-27 March made 28 Mar. 1846.
 4. Stephen to J.C. Stephen, 14 Jan. 1846, Stephen Papers, Journal to J.C.S., 1845-1857. The plans were announced in parliament on 29 May 1846: Hansard, 3rd series, LXXXVI, 1846, clms. 1420-1.

effect of the reforms of the previous twenty years had been to make the office a professional organization but it was still hampered both by the methods of choosing clerks (which remained purely a matter of ministerial patronage) and by the continuance of outmoded traditions especially in relation to promotion. Since all the previous reforms had been piecemeal a full-scale reorganization was likely to involve the immediate interests¹ of everyone in the department.

It is extremely doubtful if Gladstone saw these difficulties. His analysis probably went no further than a realisation that the office structure might be rationalised and improved by strengthening the higher² echelons and lopping off some of the lower echelons. There was also a further factor in his calculations which he did not announce openly. He saw in his permanent under-secretary a greatly over-worked old man whose offer of resignation in March 1846 he had kindly rejected.³ He almost certainly expected that Stephen's final retirement could not be long delayed and therefore anticipated the need to devise some scheme to soften

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1. As was shown by the commission of enquiry in 1849: Report, H.C., 1854, XXVII, (1715), ff. 79-97.
 2. See, for example, Gladstone to Clerks, 24 Apr. 1846, C.O. 537/22, f. 179. See also the significant deleted passage in his farewell letter: Gladstone's memorandum, 4 July 1846, B.M. Add MS. 44735.
 3. Stephen to Napier, 9 Mar. 1846, B.M. Add. MS. 34626, f. 112; and Stephen to Gladstone, 12 Mar. 1846 (two letters), B.M. Add. MS. 44363, ff. 287, 289.

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the blow of losing his services.

Gladstone worked on his plan for three months, consulting Goulburn at the Treasury and finally producing a memorandum which he sent to Stephen for comment. To win acceptance at the Treasury, almost every plan for reform had to at least appear to effect a saving in departmental expenses. Gladstone took this obligation seriously. He suggested the gradual abolition of five clerical positions, one senior clerkship and all four probationers; the only new addition he wanted for the lower grades was the appointment of a junior position of registrar. Using some of the funds saved by this retrenchment, Gladstone proposed "to appoint an assistant under-secretary who shall be also a Third Commissioner of Emigration!"²

This was Gladstone's contribution to office reform. He told the Treasury that to aid the heavily-worked Commission of Land and Emigration a third or legal member would be appointed in place of the unpaid legal assistance hitherto provided by the Board of Trade.³ His services would be shared by the Colonial Office. Though the new official was given the

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1. In rejecting the resignation, Gladstone in fact told Stephen that he had a successor in mind for the permanent under-secretaryship: Stephen's Diary, entry for 2 Mar. 1846.
 2. See Gladstone to Stephen, 6 Apr. 1846, with enclosed draft paper, B.M. Add. MS. 44364, f. 14.
 3. In this he was being slightly devious since the assistant under-secretary's services were not to be regularly available to the Commission: Gladstone to Rogers, 18 May, 1846, B.M. Add. MS. 44528, f. 45. The idea of obtaining further legal assistance seems to have originated with Stanley. See the minutes on Macleod to Stanley, 2 Jan. 1844, C.O. 295/142.

title of assistant under-secretary, his work on the colonial side was only a slightly elevated version of what Stephen had called a legal assistantship. Gladstone wanted someone with "legal qualities and habits of mind, and even, to some extent, of legal attainments", to aid the permanent under-secretary in discharging a large part of his duties.¹ Since these duties were technical, the position could not be given to a member already on the establishment: it would create, therefore, a senior position, like the permanent under-secretaryship, outside the range of the establishment.²

The announcement of Gladstone's decision was greeted by a howl of protests from the officials. The lower grade clerks bitterly resented the extra routine work imposed on them by the loss of the supernumeraries and vehemently protested.³ At least two of the senior clerks similarly reacted to the threat of extra work which the loss of one of their number and the diminution of their clerical assistance might involve.⁴ The only person who might have thought his interests well protected by Gladstone's plan was Stephen, but he was equally dejected. The creation

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1. Gladstone's draft plan, April 1846, B.M. Add. MS. 44735, f. 176.
 2. Drafts of C.O. to Treasury, 17 Apr. 1846, C.O. 537/22, f. 210.
 3. Chapman, Unwin, et al., to Gladstone 21 Apr. 1846, C.O. 537/22, f. 178.
 4. Stephen's Diary, entry for 6 May 1846.

of an assistant under-secretaryship, he declared, was the word of doom to his official importance:

"Yet I am very glad of it. My importance has grown a heavy burden to me, and never yet (as far as I can remember) brought with it any worship or contentment". ¹

Stephen's comment is very surprising since Gladstone made it quite clear to the new assistant under-secretary, Frederick Rogers, that he must ordinarily arrange the application of his time "in concert with, and in subordination to, the permanent under-secretary". ² There are several possible explanations. Rogers' duties were to include the review of colonial legislation and all the other functions which had originally attached to the role of counsel. ³ Stephen, whose career had begun with the counselship and whose legal services continued to be one of the most important elements in his influence on secretaries of state, ⁴ obviously resented the loss of the duties he had performed for 33 years. Small wonder that he felt at the end of an era. When Rogers began his work Stephen simply could not stop himself re-reviewing in lengthy minutes Rogers' reports. ⁵ It seems possible also that Stephen caught the drift

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1. Stephen's Diary, entry for 6 May 1846.
 2. Gladstone to Rogers, 18 May 1846, B.M. add. MS. 44528, f. 45.
 3. Draft C.O. to Treasury, 17 Apr. 1846, C.O. 537/22, f. 210; Gladstone to Rogers, 18 May 1846, B.M. Add. MS. 44528, f. 45.
 4. See, for example, Stephen to Napier, 24 Mar. 1840, B.M. Add. MS. 34621, f. 83.
 5. C.O. 323/61 and C.O. 323/62 provide a great many examples.

of Gladstone's thought and realized that these measures were preparations for his retirement. Since Stephen had not yet reconciled himself to the idea of leaving, Gladstone's actions must have seemed unfeeling.¹ For the rest, Stephen's disappointment probably reflects a feeling of empathy with his friends among the clerks.

Despite his protestations to the contrary, Gladstone's plan probably left Stephen relatively content. In return for training the new official in legal counselling, Stephen gained assistance with his work and retained control both as permanent under-secretary and counsel. His claim that only family responsibilities, his conscience and his instinct kept him in office must be regarded rather sceptically.²

When Grey followed Gladstone, Stephen found himself faced with the problem of restoring good relations with his chief. This was not achieved without difficulty. He was forced again to deal with a man who had earlier sat at his feet and who, on his return to the Colonial Office, appeared much changed;

"a little allayed in manner, less abrupt and harsh, but cold, peremptory, self-willed, of strong clear sense".³

In the intervening period Grey, far more than Gladstone, had moved towards

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1. How painful this prospect was can be gathered from Ward's article: J.M. Ward, J.M.H., XXXI, iii, 1959, pp. 189-205.
 2. Stephen's Diary, entry for 6 May 1846.
 3. Stephen's Diary, entry for 6 July 1846, written 12 July 1846.

the Colonial Reformers. In 1846 he insisted on bringing into the Cabinet his friend Charles Buller, Wakefield's close associate and a man who Stephen admired at a distance but could never trust.¹ To Stephen's further annoyance Grey insisted that Buller be allowed to examine the Colonial Office records. But in his attempt to make Buller "a sort of super-numerary under-secretary", he agreed to compromise and confine Buller's activity to parliamentary business and not to allow him to meddle in the daily concerns of the office.²

Stephen and Taylor had almost identical opinions of Grey. They both liked him exceedingly as a person, admired his talents and distrusted his professional judgement. In their view his main defect was that he was too precipitate; he rushed into decisions and then was borne along on the wings of his enthusiasm without regard for immediate practicalities.³ This was a weakness rare in a secretary of state and in many ways rather endearing. It did not hamper the restoration of domestic peace at the office - after the initial doubts. By the end of the first month the office was again grappling with the major issues of colonial policy.⁴

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1. For Stephen and Buller see Stephen's Diary, entries for 21 Jan., 28 Jan., 16 Mar., 16 May & 5 July 1846.
 2. Stephen's Diary, entry for 7 July 1846, written 12 July 1846; Morrell, British Colonial Policy in the Age of Peel and Russell, p. 203.
 3. Stephen to Gladstone, 22 Aug. 1848, B.M. Add. MS. 44367, f. 272; Taylor to Spedding, 12 Aug. 1846, Taylor Papers, M.S. Eng. letters d. 10, f. 164.
 4. See, for example, correspondence between Grey and Stephen in August 1846, Grey Papers, especially Stephen to Grey, 21 Aug. 1846, Grey Papers, Stephen.

Unfortunately the peace was shattered in October 1847 when Stephen ¹ took ill and was forced to leave the office and ultimately to resign.

There was no time in the bustle of activity which Grey brought to the office to consider further schemes of office re-organisation before Stephen withdrew. Grey was certainly interested and in an attempt to compensate for the loss of Stephen's services a minor reconstruction was attempted in 1847² but two years later the basic structure was still as it had been before Stephen's departure.³ Professor J.M. Ward, in his article on Stephen's retirement, has shown how Grey's determination to retain Stephen's services combined with Stephen's wish to continue aiding the Colonial Office produced a number of plans between 1847 and 1849 designed to provide the office with the assistance of an expert consultative service - undoubtedly one further attempt to introduce philosophical government into colonial administration.⁴

Most of these plans originated with suggestions from Stephen. One of them, which reached fruition under Grey, has been called by John M. Ward "one of the memorable acts of Grey's public life" - "the temporary revival of the work of the board of trade, or committee of council for trade and

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1. For these events, J.M. Ward, J.M.H., XXXI, iii, 1959, pp. 109-205 is indispensable.
 2. J.M. Ward, J.M.H., XXXI, iii, 1959, p. 194. The best source for Grey's ideas are his Journal for Oct. and Nov. 1847, Grey Papers, Journals, and the Office Minutes, C.O. 878/2, nos. 39-41. See also C.O. to Treasury, 27 Nov. 1847, C.O. 323/232, f. 170.
 3. Committee of Enquiry into the Colonial Office, 15 Dec. 1849, H.C. 1854, XXVII (1715), ff. 79-97.
 4. J.M. Ward, J.M.H., XXXI, iii, 1959, pp. 19-39. Taylor said so explicitly: Taylor to Grey, 17 Nov. 1847, Grey Papers, Taylor.

plantations, as a high consultative body on colonial policy".¹ Stephen performed some useful work on this committee in 1849 but, like all the other schemes, it eventually failed. Its failure was partly owing to the opposition of the Prime Minister, Lord Russell, and partly because Stephen could not be satisfactorily accommodated in it. Grey had no interest in² any of their plans beyond securing Stephen's assistance in his work.

Nonetheless, Stephen's influence on the Colonial Office did not end in 1847 or even in 1849. He had by 1833 evolved a coherent theory on the functioning of his office; by 1847 he had been able to test some of his theories in practice. He had not abandoned his early reforming ideas; on the contrary his experience convinced him that further reform was still necessary. In 1849 he was given an opportunity to put his case when the government committee of enquiry which was then in process of examining the³ whole civil service made its report on the Colonial Office.

It seems hardly an exaggeration to say that Stephen influenced every one of the recommendations in the report of the 1849 commission. Indeed the commissioners themselves believed so:

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1. J.M. Ward, J.M.H., XXXI, iii, 1959, p. 197. Stephen's views are set out fully in Stephen's memorandum, 12 Oct. 1849, Grey Papers, Stephen.
 2. J.M. Ward, ibid., pp. 197-205.
 3. Stephen was approached in Jan. 1849; Stephen to Grey, 24 Jan. 1849, Grey Papers, Stephen.

"in the view we have taken of the defects of the existing system of the Colonial Office and of the general nature of the measures required to remedy them, we have the entire concurrence of Sir James Stephen..."¹

Of these recommendations the most important was the division of the clerical staff into two grades, 'intellectual' and 'mechanical'. They also recommended an age limit for candidates in the 'intellectual' grade (between 20 and 25 years old on first entry), a system of scrutinising the applicants in advance (by an examination to test their learning and abilities) and a probationary period on being admitted to the office. They were also in favour of making merit as well as seniority the grounds for promotion, and they supported the notion that the 'mechanical' grade of clerks should consist of copyists, employed at piece-rates, and working under the charge² of the Superintendent of Copyists. Many of these were either ideas which Stephen had mooted in 1833 or borrowings from what he had achieved between 1836 and 1847.³

By 1850 most of the commission's suggestions had been implemented in the Colonial Office. But Stephen's final victory was still to come. In 1853 Stafford Northcote and Charles Trevelyan, the two men principally responsible for the departmental commissions of enquiry, were called upon

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1. 'Committee of Enquiry into the Colonial Office, 15 Dec. 1849', H.C., 1854, XXVII (1715), f. 86.
 2. Ibid., ff. 79-97. Stephen's evidence is not printed.
 3. Pugh, rather grudgingly, alone suggests this: Pugh, C.H.B.E., III, p. 717, fn. 1.

to present a general report on the reorganisation of the permanent civil service. Their report is now regarded by historians as one of the turning¹ points in the history of the civil service: and yet their avowed dependence on what had already been achieved in some of the more 'progressive' offices is striking.² Their dependence on the views and activities of James Stephen and the Colonial Office in particular has received too little³ attention.

Lord Granville, defending the Northcote-Trevelyan report in the House of Lords in 1854, claimed that its recommendations were welcomed by Sir James Stephen.⁴ Stephen, who in fact had profound reservations about the report, insisted upon a retraction and instead was encouraged and given the opportunity by Gladstone, then chancellor of the exchequer, to make his views public.⁵ In 1855 Stephen's letter to Gladstone, together with

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1. E.W. Cohen, The Growth of the British Civil Service, (London 1941), pp. 87-103.
 2. The Board of Excise and Inland Revenue was specially commended, 'Report on the Organization of the Permanent Civil Service', H.C. 1854, XXXVII (1713), p. 11.
 3. The only comment comes from Professor Hughes, "Civil Service Reform, 1853-55", Public Administration, XXXII, 1954, pp. 33-5. Most historians have contented themselves with easy censure: e.g. W.L. Burn, The Age of Equipoise, (London, 1964), pp. 141-2.
 4. Hansard, P.D., 3rd series, CXXXI, clms. 659, 764. So, in a private letter, had Charles Trevelyan: E. Hughes, "Sir Charles Trevelyan and Civil Service Reform, 1853-5", English Historical Review, LXIV, p. 219.
 5. Stephen to Gladstone, 13 Apr. 1854, B.M. Add. MS. 44379.

those of several other eminent public figures, was published along with the report itself.¹ From Stephen's letter it is possible to see both why Lord Granville was mistaken and why Stephen objected to being presented as a defender of the report.

On two basic principles Stephen and Northcote and Trevelyan were in complete agreement. They felt that the system of ministerial patronage for choosing clerks was the root cause of the defects in the civil service and they agreed that the best solution was to adopt some method of prior examination for civil service candidates. Their agreement went even further. Stephen's belief in a service divided into 'intellectual' and 'mechanical' grades, adopted in 1849 for the Colonial Office, was now given the accolade of recognition by the commissioners as, in their view, of benefit for the whole civil service. Moreover, Stephen's copying class was exactly the kind of model which they recommended for the 'mechanical' grade. Even down to details, that there ought to be age limits for candidates, for example, or that promotion by merit ought to be recognised, they were in substantial agreement. These were for Stephen all old causes² which had already triumphed in the Colonial Office.

They disagreed, fundamentally, on how their reforms were to be

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1. 'Papers Relating to the Re-organisation of the Civil Service', H.C., 1854-5, XX, 1870.
 2. They are hinted at in the 1832 memorandum and in the letter to Taylor on statesmanship: Stephen's memorandum, 30 Mar. 1832, C.O. 537/22, f. 3 and Stephen to Taylor, 16 Nov. 1835, Stephen Papers. See also Pugh, C.H.B.E., III, p. 739.

effected. The principal recommendations in the Northcote-Trevelyan report were the unification of the civil service, the opening to competitive examination of all civil service posts, and the reliance entirely on merit for promotions in the service.¹ This programme was presented as a panacea for all the ills of the service. As Professor Edward Hughes wrote:

"the impression which the Report conveys is of a brilliant airing of pre-conceived ideas which might or might not have any relation to the facts".²

Stephen's rebuttal of their recommendations in his letter to Gladstone conveys unmistakably the opposite impression, that of ideas deriving from a wealth of practical experience and even with something of the cynicism which his 35 years in administrative office had given him.

Stephen's analysis is the more impressive for its moderation. He did not deal with recommendations which fell outside his experience, such as the advantages of a unified civil service. His attack was on fundamentals. He repudiated the suggestion that all civil service posts should be filled by open competitive examination since he could not accept the premise on which it was based - that the civil service should attract "the most promising young men of the day". Stephen asserted categorically that the civil service could never do this: its richest prizes were inferior to those which the highest talents would desire, being purely financial and providing no opportunity for fame or even for independent exertion. What

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1. For a summary, see R.G. Greaves, The Civil Service in the Changing State (London, 1947), pp. 19-44.
 2. E. Hughes, "Civil Service Reform, 1853-55", Public Administration, XXXII, 1954, p. 31.

the civil service should try to recruit was not "statesman in disguise but...intelligent, steady, methodical men of business". For this purpose,¹ the most clever candidates were unlikely to be the most suitable.

Stephen did not reject the idea of central examinations by a scholarly and respected independent tribunal. But he confined this to a more subordinate role, that of ensuring that candidates possessed the minimum qualifications required for office service. The retention of some element of patronage, he felt, was essential. The idea of a civil service recruited entirely on impersonal, intellectual grounds utterly repelled him. The civil service, like the church or any other organisation, was not simply a calculating machine. As an organisation it represented a social unit and, like society, must embrace the mediocre with the intelligent, the dull with the able. This simple fact also cast doubts on the Northcote-Trevelyan faith in merit promotions. But Stephen felt this less of a problem since he was convinced that, in practice, no secretary of state would ever be able to rely on merit alone. An office in which every promotion was to be decided strictly on the grounds of merit was an office² in a state of anarchy.

There was a weakness in Stephen's argument. He did not explain how

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1. Stephen to Gladstone, 12 Apr. 1854, 'Papers Relating to the Re-organisation of the Civil Service', H.C., 1854-5, XX, 1870, pp. 71-80.
 2. Ibid., pp. 76-79.

his system of reformed or circumscribed patronage was to operate. Any candidate, provided he was qualified, could apply to an office for a position. But his request would be decided presumably according to the influence which his sponsors had with the minister at the head of the office or, at best, on the reputation which he had gained for himself. The range of choice, which was obviously important in improving the quality of candidates and which the Northcote-Trevelyan plan immeasurably widened, was left by Stephen's suggestions to the discretion of the ministers themselves. This seems a rather careless exercise of trust in the "unconscientious patrons" whose choice of weak candidates he was implicitly¹ deploring. But he may have presented only one side in an effort to combat the undoubted authority of the report. Certainly his closing remark, that a period of preparation was required to test the political effect of any changes, seems to suggest that he did foresee the partial adoption of the plan to broaden the basis of recruitment by opening more² positions to public examination.

But the rest of his darts hit the mark. When in 1855 a Civil Service Commission was established, it followed Stephen's suggestion of acting as an examining board to determine whether candidates were³ adequate rather than adopting examination as a means of selection. Even

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1. Stephen to Gladstone, 11 July 1855, B.M. Add. MS. 44384, f. 115.
 2. Stephen to Gladstone, 12 Apr. 1854, 'Papers', H.C., 1854-5, XX, 1870, p. 80.
 3. Cohen, British Civil Service, pp. 110-119.

when open competitive examination was finally instituted and a large number of posts were filled in this way Stephen's principles of finding the men best suited to the jobs and not relying entirely on intelligence tests continued as part of the civil service tradition. So also did his belief in grading the profession.¹ When these facts are considered can it really be doubted that in his work on administrative reform, covering at least twenty years, Stephen made one of his greatest contributions as an official?²

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1. Herman Finer, The British Civil Service (London 1937), pp. 66-9, 75-80.
 2. Cf. Pugh, C.H.B.E., III, p. 724, who says Stephen's interest "probably lay more in policy itself than in the machinery for putting it into effect".

CHAPTER III

James Stephen and the Administration of Trinidad

By 1813 it was clear that representative institutions would be withheld from Trinidad and that the power of the crown to legislate for the Island would be preserved and utilised. There were various reasons for this decision. Trinidad's free population consisted overwhelmingly of free coloureds whereas in the British Empire political rights and privileges were enjoyed exclusively by whites. The white population of Trinidad was also largely foreign, French or Spanish, whereas in the older British possessions British institutions were operated by natural born British subjects. But perhaps the most crucial factor was that Trinidad's future constitution ^{had been} was treated as a matter of imperial concern in relation to the abolition of the slave trade. ¹ The decision to withhold representative institutions, however, did not prevent local governors from taking it upon themselves to legislate for the colony by proclamation though the British government was seldom informed of their legislative activities. ² Legislation was simply divided between the two authorities.

Despite the continuing respect for local initiative in legislation the crown's legislative powers were not left dormant. Mainly through pressure from anti-slavery groups in Parliament, the British government

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1. J.C. Millette, Constitutional Development in Trinidad, 1783-1810, University of London, Ph.D. thesis, 1964: D.J. Murray, The West Indies, pp. 67-88.
 2. Stephen to Twiss, 19 June 1829, C.O. 295/83, Stephen.

began to adopt a more positive policy on the slavery question. This was done initially by assisting in the implementation of the Slave Trade Abolition Act of 1807. By an order in council for Trinidad in 1811 an attempt was made to register all slaves on the Island so that illegal importations could be discovered. It was hoped that this order might be extended eventually to the other crown colonies and also, by persuading¹ the local legislatures to adopt it, to the older plantation colonies. The metropolitan interest in the use of the crown's legislative powers was also supported by some of the governors in the new colonies. When doubtful of their right to legislate on important internal questions, they sent drafts of laws to the Colonial Department with a request for them to be enacted in Britain by orders in council.²

A governor's proclamation was not officially a legislative act and, since the framing of orders in council was outside the counsel's regular duties, Stephen was not required initially to deal with Trinidad's³ administration. Though uninvolved professionally, he was, however, not uninterested. His father had been the principal proponent of the registration scheme and the author of the Trinidad order in council of 1811,

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1. Murray, The West Indies, pp. 78-9, 93-7.
 2. Stephen to Horton, 6 Oct. 1825, C.O. 295/68, Stephen.
 3. Stephen to J.C. Stephen, 10 July 1816, Stephen Papers, Journal to J.C.S., 1816-1845; Stephen to Horton, 6 Oct. 1825, C.O. 295/68, Stephen.

and there can be no doubt that Stephen was fully aware of all the details of his father's scheme.¹ This specialised knowledge proved useful when the old West Indian colonies began to send home for scrutinisation~~tion~~ slave registration laws supposedly based on British models. Stephen suggested that the legislation should be judged not solely by validity in point of law (which was all that the counsel was supposed to consider) but also by their conformity in both the spirit and the letter with the registration order for Trinidad and with Wilberforce's abortive parliamentary bill on the subject of 1814.² When Bathurst accepted this suggestion Stephen took full advantage of the opportunity which he had created for himself. His reports on the West Indian registration bills judged by the normal standards of counsel's reports were, as he himself confessed, of "unusual and....alarming bulk".³ They were also of considerable political significance since they enabled the secretary of state to offer direct criticisms to the governors on the subject and so ensured that attempts to evade the system of registration by defective legislation would not be successful.⁴

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1. Stephen to J.C. Stephen, 19 June 1816, Stephen Papers, ibid.
 2. Stephen to Goulburn, 20 May 1817, C.O. 323/40, f. 173; Stephen's report, 31 May 1817, C.O. 323/40, f. 175.
 3. Stephen to Bathurst, 6 Oct. 1817, C.O. 323/40, f. 216.
 4. Paul Knaplund, "Sir James Stephen: the Friend of the Negroes", Journal of Negro History, xxx, 1850, pp. 368-72.

A detailed knowledge of the slavery question was one source of Stephen's professional influence; another was his knowledge of the pre-conquest Trinidadian legal system. In 1823 when a legal appeal from Trinidad was submitted to him for his opinion, Stephen wrote to his superior:

"My knowledge of the law of Spain, as administered in Trinidad, is slight and superficial, and therefore is probably inaccurate". ¹

Unquestionably this was more than merely a reflection of his customary modesty since Trinidad's Spanish legal system was notoriously confusing. But even a slight and superficial knowledge of the subject was much more ² than any other government legal officer could claim. Stephen was at least keen to learn. Within a few years of joining the office he had acquired some knowledge of Trinidad case law and over the following two ³ decades he made several attempts to increase and deepen this knowledge.

These professional efforts were soon rewarded. When in the course of the 1820s the Colonial Department began to scrutinise the legislative drafts and proposals which were sent from Trinidad, Stephen was requested to offer

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1. Stephen to Wilmot, 18 Apr. 1823, C.O. 295/61, Stephen.
 2. Stephen to Horton, 6 Oct. 1825, C.O. 295/68, Stephen. Stephen asked for specialised aid in 1823, e.g. Stephen to Wilmot, 18 Apr. 1823, and Stephen to Horton, 17 Dec. 1823, C.O. 295/61, Stephen; but in 1824 he wrote the drafts himself, e.g. Stephen to Horton, 1 Jan. 1824 and Stephen to Horton, 16 Jan. 1824, C.O. 295/64, Stephen.
 3. E.g. Stephen's report, C.O. 323/39, f. 175; Stephen to Stanley, 1st May 1833, C.O. 295/100, Stephen.

criticisms and then to undertake the task of preparing and drafting the amended legislation.¹ One instance of this work was Stephen's preparation of the famous Trinidad order in council on the amelioration of slavery in 1824 which sought, basically, to provide a model slave code to try to improve the treatment of slaves.² This was by no means an isolated case. From 1823 onwards he drafted orders in council on a great variety of topics from rules for civil courts to laws governing the ownership of land by aliens.³ In addition to drafting laws, Stephen, as his reputation grew, was asked to deal with the governors' requests for legal advice and with appeal cases arising from colonial litigation.⁴ Often these required only technical criticisms but on slave amelioration questions Stephen's reports were distinctly more political. As with registration legislation they involved an attempt both to keep the secretary of state informed on whether the policies worked out in Britain were being fully applied in the colonies and also to suggest methods of countering attempts at evasion.⁵

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1. E.g. Stephen to Horton, 17 Dec. 1823, C.O. 295/61, Stephen; Stephen to Horton, 1 Jan. 1824 and 26 Jan. 1824, C.O. 295/64, Stephen.
 2. Draft order in council, 1824, C.O. 295/64, Stephen.
 3. E.g. Stephen to Horton, 6 Jan. 1825, C.O. 295/68, Stephen; Stephen to Horton, 16 Jan. 1824, C.O. 295/64, Stephen.
 4. E.g. Stephen to Wilmot, 18 Apr. 1823, C.O. 295/61, Stephen.
 5. Draft order in council 1824, C.O. 295/64, Stephen; Stephen to Horton, 7 Dec. 1825, C.O. 295/68, Stephen; Stephen to Horton, 5 Oct. 1826, C.O. 295/73, Stephen; Stephen's memorandum, 28 Jan. 1831, Grey Papers, Slavery; Stephen's report, 30 Aug. 1830, C.O. 323/47, f. 106.

The political bias in Stephen's reports on slavery is striking.

On judicial appeal cases arising from slavery registration or amelioration legislation he acted consistently as a defender of the rights and interests of the slave rather than as an impartial judge. He even confessed on one occasion that he was forced to use "legal subtlety" in his review but this was necessary "to reach substantial justice" to the slave concerned.¹ Where even legal subtlety failed he would go further. In cases of disputed ownership of slaves he persuaded the secretary of state to get the British government to purchase the slave's freedom in return for a promise to end the litigation.² The welfare of the slave was often his chief concern even when the subject at issue was not directly connected with slavery. In 1830, while reviewing sympathetically a proposed alteration in the law on property inheritance, he commented:

"an argument which weighs greatly with me is the discouragement which the existing rule of law opposes to testamentary manumissions".³

So successful was his work in virtually making legal review part of the anti-slavery campaign, in fact, that the supporters of the movement in Britain came to judge its progress by its capacity to secure acceptable

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1. Stephen to Howick, 6 Dec. 1830, C.O. 295/86, Stephen.
 2. Stephen to Howick, 15 Jan. 1831 and Stephen to Taylor, 4 Mar. 1831, C.O. 295/90, Stephen.
 3. Stephen to Twiss, 26 Oct. 1830, C.O. 295/86, Stephen. For other examples of aiding the slaves see Stephen to Twiss, 17 Oct. 1828, C.O. 295/79, Stephen; Stephen to Twiss, 24 Feb. 1830, Stephen's C.O. 295/86; Stephen to Howick, 21 Mar. 1831, C.O. 295/90, Stephen; and Stephen's report, 4 Dec. 1832, C.O. 323/48, f. 329.

legislation in the West Indies.¹ For Stephen his work on the slavery question was a labour of love. He felt he was carrying forward the family campaign which his father had begun.²

Stephen's contribution to the final achievement of slavery emancipation and his authorship of the emancipation bill have been examined many times by historians but, in general, they have concentrated too exclusively on the last phase of the movement when he was less influential.³ A study of his administrative views on Trinidad would show that emancipation was merely the culmination of almost twenty years of work on behalf of the slaves. This work was quite exceptional for a counsel being both prodigious in amount and extremely complex and minute in detail. Even before his appointment as permanent counsel in 1825 Stephen had undertaken the most elaborate and painstaking criticism of the provisions of Trinidad's plan for slave amelioration.⁴ In 1831 on the same subject he was writing a report of well over a hundred pages to brief Lord Howick, the incoming under-secretary, on the subject.⁵ These two qualities, the prodigious

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1. Murray, The West Indies, p. 187.
 2. Stephen to J.C. Stephen, 12 June 1816, Stephen Papers, Journal to J.C.S., 1816-45.
 3. W.L. Burn, Emancipation and Apprenticeship in the British West Indies (London, 1937), pp. 114-132, 137-9; H.T. Manning, 'Colonial Crises before the Cabinet, 1829-1835', Bulletin of the Institute of Historical Research, xxx, 1957, pp. 41-61.
 4. Stephen's report 1824, C.O. 295/64, Stephen.
 5. Stephen's memorandum, 28 Jan. 1831, Grey Papers, Slavery.

labour and the technical expertise, which account for his rise in the office, also explain his influence over policy. His influence when combined with his persistent vigilance as the self-appointed protector of the rights of the slaves must be considered an important factor in any full account of the achievement of slavery emancipation in Britain.

The appointment of a professional legal commission of investigation for the West Indies in 1822 temporarily affected Stephen's position as legal expert since all important legal disputes which arose were referred¹ to them. He found compensation in another direction. Beginning in the early 1820s and consistently from 1825 Stephen showed a willingness to review not only the legislation of the older colonies but also that of² the conquered colonies including Trinidad. There were obvious objections to dealing with questions "in point of law" when the legislature itself rested on dubious constitutional grounds but Stephen was not prepared to let these stand in his way.³ On the contrary, he asked his superiors to demand that all colonial legislation from whatever source should be formally forwarded to the office for review. All such legislation should

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1. For the origins of the commission see Murray, The West Indies, pp. 104-5. For its effect on Trinidad see e.g. Stephen to Bathurst, 22 Sept. 1825, C.O. 295/68, Stephen.
 2. Stephen's report, 1823, C.O. 323/42, f. 306; Stephen to Bathurst, 22 Sept. 1825, C.O. 295/68, Stephen.
 3. Stephen to Twiss, 19 June 1829, C.O. 295/83, Stephen.

have one uniform format (for Trinidad, he suggested that the title of "ordinance" should be used) and it should be stated whether the act was passed with or without the advice of the governor's advisory council -

"a distinction of essential importance, and which, I conceive, ought always to be made". 1

The adoption of Stephen's suggestion marks an important stage in the history of the crown colony system. By utilising the same procedure for dealing with crown colony legislation as had been adopted for the colonies with representative institutions, the local legislature of governor and council was strengthened, the governor was discouraged from acting autocratically and it was officially recognised that the initiative in colonial legislation would come from the colony. The Colonial Department's administrative efficiency was improved also by being provided with a fuller knowledge of colonial conditions. Above all, the role and influence of the legal counsel was considerably extended. Since Stephen's reviews of crown colony legislation were not submitted to the cumbersome formalities of a secondary review at the Board of Trade, he was able to dispense with customary procedure and to write informal criticisms for the secretaries of state, often of a non-legal nature, which frequently served as the basis of reply dispatches to the governor concerned.²

The submission of crown colony legislation to review by the Colonial

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1. Stephen to Horton, 6 Oct. 1825, C.O. 295/68, Stephen.
 2. Hill to Glenelg, 23 Aug. 1838, Stephen's minute, 8 Oct. 1828, C.O. 295/121, Stephen.

Department was one part of a general scheme to render the colonial executive answerable to the secretary of state and to ensure that the government was kept well enough informed to be able to exercise efficiently its administrative functions.¹ Nonetheless, as it is quite clear in the case of Trinidad, Stephen did not believe in using metropolitan powers to dictate day-to-day colonial policies. He believed that in a remote colony governed by foreign laws, like Trinidad, the British government was "unavoidably incompetent" to appreciate or to remedy local grievances² unaided. In general, he was convinced;

"with a view to the real efficacy of a colonial law, the best method is to leave the framing it to the public officers in the colony, except in cases when the influence of local prejudices may be expected to operate too strongly".

This procedure utilised local information, which was bound to be more accurate, and enlisted the self-love of colonial authorities in ensuring that the law was skilfully prepared before its submission to the Colonial Department.³ It also provided an opportunity for local opinion to make⁴ itself known before a final decision on the act was pronounced.

Though he supported local legislative initiative, even in crown

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1. Murray, The West Indies, pp. 150-4. For a Trinidad case see e.g. Stephen to Horton, 19 July 1826, C.O. 295/73, Stephen.
 2. Stephen to Horton, 6 Oct. 1825, C.O. 295/68, Stephen.
 3. Stephen to Twiss, 8 Apr. 1829, C.O. 295/83, Stephen.
 4. Stephen to Twiss, 26 Oct. 1830, C.O. 295/86, Stephen.

colonies, Stephen initially always excepted cases where local prejudices had to be counteracted. Slavery was one such question and the rights and duties of free coloured citizens was another. The free coloured population of Trinidad was unusually large. In 1828 the Island's population consisted¹ of 16,412 free coloureds, only 4,326 whites, and 22,436 slaves. The free coloureds were not only numerous but a section of them at least was organised and vocal. Under Spanish law free coloured citizens had enjoyed extensive civil rights but, after the British conquest, the local governors had begun to discriminate against them and their complaints ultimately² reached the Colonial Department. There they fell on attentive ears. As with slave questions Stephen was more of an advocate than a judge when³ dealing with questions involving the free coloured inhabitants and he sought eagerly to protect their social, economic and political welfare. All attempts at discrimination on the grounds of colour were attacked. Stepping outside his brief, Stephen argued that the civil rights of free coloured peoples must depend not on law alone but on "the wider basis of justice, national faith and sound policy". Even discrimination which benefitted the coloured man (such as cheaper medical care) was objectionable, since it implied legal inferiority. Officially sponsored segregation, such as separate seating arrangements in church, he strenuously opposed.

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1. L.M. Fraser, History of Trinidad, II, p. 211.
 2. Gertrude Carmichael, The History of the West Indian Islands of Trinidad and Tobago, 1498-1900, pp. 82-85.
 3. Stephen to Horton, 27 Sept. 1825, C.O. 295/69, Stephen; Stephen to Hay, 15 Jan. 1829, C.O. 295/83, Stephen.

There was also a positive side to Stephen's advocacy of the rights of the free coloured population. During the years between 1830 and 1833, when the structure of government and the judicial system in Trinidad was liberalized, Stephen insisted that the free coloured citizens should be admitted to all the new franchises and be eligible for all civil and judicial offices. The British government, he felt, should aim at "throwing open the door indifferently to all classes" so that:

"that which is most numerous and best affected, namely the free coloured people, will acquire a preponderating influence in the administration of justice, and the cabals of the cabildo /the planter-dominated municipal council in Port-of-Spain/ will be effectually broken down". 1

These views were written into the legislation of Trinidad and it is in no small measure owing to Stephen that the slaves on emancipation entered into the full enjoyment, at least in so far as laws alone could secure them,² of the civil rights of free citizens.

His concern for the welfare of the free coloured population may also have been the reason for Stephen's active interest in the question of land legislation. Under Spanish rule, land grants had been made to both white and coloured free settlers; but successive British governors in their attempts to reward supporters or to raise a revenue began to inquire into land titles and to impose a quit rent on landed property. Since few of the pre-conquest settlers could produce a valid title to their lands they were considerably

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1. Stephen to Howick, 25 Aug. 1832, C.O. 295/93, Stephen.
 2. C.H. Wesley, "The Emancipation of the Free Coloured Population in the British Empire", Journal of Negro History, 1934, xix, pp. 137-70.

embarrassed by this action.¹ When their protests were submitted to Stephen, he decided that they had a good case; but the secretary of state preferred to refer the question to the West Indian legal commission of 1822. This seemed likely to involve an indefinite postponement since neither the governor nor the secretary of state was disposed to raise the subject again. Stephen insisted that they must do so. In 1829, relying on the evidence adduced by the legal commission, he finally convinced his superiors to allow the claimants to secure title to their properties.²

Stephen's determination to become a friend of the West Indian Negro is indisputable, but his success is more difficult to gauge. Henry Taylor maintained that Stephen's liberal policies towards the free coloured population were partly in conflict with his liberal constitutional policies towards the white settlers.³ This is a rather harsh verdict. Certainly Stephen would have no more truck with the notion of a governor ruling as an autocrat than with the total direction of administration from Britain.⁴ In his early years as counsel, he believed, constitutionally, in a system

1. Stephen to Twiss, 8 Apr. 1829, C.O. 295/83, Stephen.

2. Stephen to Bathurst, 22 Sept. 1825, C.O. 295/68, Stephen; Stephen to Bathurst, 2 Sept. 1826, C.O. 295/73, Stephen; Stephen's report, 4 July 1827, C.O. 323/44, f. 201; Stephen to Twiss, 8 Apr. 1829, C.O. 295/83, Stephen.

3. Murray, The West Indies, pp. 170, 173-4, 176.

4. Stephen to Twiss, 19 June 1829, C.O. 295/83, Stephen.

of checks and balances. The executive, for example, should not be¹ allowed to encroach on the sphere of the judiciary nor vice versa.

Equally, the governor's legislative powers should be exercised only through a local body in which local interests were represented, even if not dominant, since this alone could allow for popular criticism to be brought to bear on the colonial government.² When, in 1831, after years of pleading on his part, a definite constitution was created for Trinidad, the appointment of a legislative council consisting of six official and six unofficial representatives, chosen by the governor from amongst the local proprietors, went some way to meet Stephen's ideas.³

From the point of view of a free coloured citizen, there were obvious objections to creating a council so unrepresentative of the majority of the people. But Stephen argued, with some justice, that the concession gave no extra power to the local legislature and did not prevent the reservation of certain subjects to the crown nor destroy the power of legal review.⁴ In other words, though direct representation of the

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1. E.g. Stephen to Bathurst, 7 Oct. 1826, C.O. 295/73, Stephen; Stephen to Horton, 12 July 1827, C.O. 295/76, Stephen; Stephen to Twiss, 19 June 1829, C.O. 295/83, Stephen; Stephen to Lefevre, 12 Dec. 1833, C.O. 295/100, Stephen.
 2. E.g. Stephen to Horton, 12 July 1827, C.O. 295/76, Stephen; Stephen to Twiss, 19 June 1829, C.O. 295/83, Stephen; Stephen to Twiss, 26 Oct. 1830, C.O. 295/86, Stephen.
 3. H. Craig, The Legislative Council of Trinidad and Tobago (London, 1952), pp. 17-22; Murray, The West Indies, pp. 160-4; 169.
 4. Stephen's report, 1 July 1830, C.O. 323/47, f. 102.

majority was postponed, the Colonial Office would continue to exercise its powers to prevent the colonial minority from abusing their control. Stephen can have had no illusion about Trinidad's "popular voice" since he himself had been the butt of the furious attacks of the planters' agent,¹ Joseph Marryatt. But he tried to be realistic. "Trinidad is almost exclusively owned by British merchants and planters", he reminded his superiors on one occasion. Even when the governor was at one with the local oligarchy, a legislative council might still act at times as a forum for the expression of the discontent of the leading settlers with the local² government.

Even before the creation of a new constitution in 1831, Stephen had often demonstrated his conviction that the British government should not allow its liberalism to blind it to local popular prejudices. This was exemplified in the debate over the introduction of English law which the legal commission of 1822 attempted to settle. Stephen refused to allow the governing clique to alter the system in their own interests. Spanish laws and institutions which had stood the test of time and proved their usefulness for the average citizen were not to be overthrown because of the protests of English cabals. What was required in his opinion was the gradual assimilation of Trinidad's legal system to that of the Mother

1. Stephen to Goulburn, 20 May 1817, C.O. 323/40, f. 173.

2. Stephen to Twiss, 26 Oct. 1830, C.O. 295/86, Stephen.

Country but only after consultation with the local official authorities. His persistence had its customary reward. In 1831 when legal reforms were introduced following the Commissioners' Report, Stephen's opinion was represented in the new laws. No rapid overthrow of the existing legal institutions was planned but a framework was to be provided to allow the local government to undertake the transition from the Spanish to the English system.²

During his years as counsel before 1836 Stephen had utilised to the full the potentialities for legal reviewing which the crown colony system presented in Trinidad. He had increased his functions, provided indispensable specialised aid for his superiors and brought his opinions to bear on the Island's administrative problems. He had also simultaneously advanced his career and the cause he supported. In doing so he had basically altered the entire function of a legal reviewer and had gone a considerable way to making the quality of local legislation the accepted criterion in Britain for judging the success or failure of colonial policy.

When Glenelg succeeded to the secretaryship of state in 1835 Trinidad's administrative problems were becoming acute. The slaves had been freed but freedom had been accompanied by Lord Stanley's scheme of apprenticeship

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1. Stephen to Wilmot, 18 Apr. 1823, C.O. 295/61, Stephen; Stephen to Horton, 1 July 1825, C.O. 295/68, Stephen; Stephen's memorandum on property inheritance n.d. (1825), C.O. 295/68, Stephen; Stephen to Twiss, 19 June 1829, C.O. 295/83, Stephen; Stephen to Twiss, 26 Oct. 1830, C.O. 295/86, Stephen.
 2. Murray, The West Indies, pp. 161-73.

which tied the former slaves to their plantations for periods of four to six years and so virtually postponed the final day of emancipation. When that day finally came the ex-slaves would possess the right to decide whether or not to continue to work on the plantations. Trinidad was amply supplied with fertile and uncultivated land which might provide them with an alternative means of subsistence. The government had to decide whether it was prepared to influence the ex-slave's choice by placing restrictions on land ownership or by providing legal guarantees for employers who wished to bind their employees to contracts.¹ Stephen was well aware of the intricacies of this problem. When he, Howick and Taylor had planned² their emancipation scheme, they had discussed the question fully.

Their agreed solution had been the adoption of a land tax on cultivated land so as to maintain the size of the labour force on the plantations. Of the three Stephen was the least enthusiastic about the scheme. He was uncertain that society as a whole would suffer from the slaves' departure from the plantations but quite sure that artificial restrictions on land ownership would be extremely unpopular with the ex-slaves whose welfare they were attempting to advance. He predicted that after emancipation there would be no great dispersal of settlement. A movement of ex-slaves

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1. The question is well presented by Burnley. See W.H. Burnley, Observations on the Present Condition of the Island of Trinidad and the Actual State of the Experiment of Negro Emancipation (London, 1842).
 2. Memoranda by Stephen, Taylor and Howick, July 1832, Grey Papers, Slavery.

into the towns and into small farming was likely so that markets and towns would flourish. In view of this, land taxes, he feared, would simply lead to squatting. But this was a purely technical objection. In general Stephen approved of the attempt to safeguard the interests of the proprietors.¹ Since Howick's plan encountered opposition in the colonies, however, it was never implemented and the question remained for Glenelg to tackle.²

In addition to the problem of the future of the freed slaves, Glenelg had to decide what action to take on the Trinidad immigration schemes which were designed for the importation of free labourers. Labour immigration was, of course, no new project in Trinidad, but the attempt after 1833 to recruit labourers to replace slaves on the sugar plantations obviously required regulation and imposed special problems which demanded the government's attention. Being a labour problem, immigration was connected with the problem of apprenticeship since one major difficulty in regard to both was the settlement of the terms for contracts between employers and employees.³

Glenelg's third concern was the constitutional problem. He had to take a decision on the colonial suggestions for changing the composition

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1. Stephen's memorandum, 6 July 1832, Grey Papers, Slavery.
 2. Murray, The West Indies, pp. 196-7.
 3. K.O. Laurence, "The Evolution of Long-Term Labour Contracts in Trinidad and British Guiana, 1834-1963", Jamaican Historical Review, V, i, 1965, pp. 9-11.

of the legislature and the judiciary and for introducing English law in order to liberalise the local constitution. In Stephen he was supplied with an expert assistant whose work on these problems had made him an undoubted authority by 1836. Stephen had originally discussed the possibility of liberalising the constitution of Trinidad with Howick in 1832. ¹ Together they had persuaded Goderich, their secretary of state, to promise the settlers a greater share in their internal government once slavery had been extinguished. ² The institution of apprenticeship, however, led to a further delay and suggested a new consideration. Representative government, in Stephen's opinion, could only work if the different classes in society could defend their own interests. In Trinidad the non-white classes had not been allowed to acquire political strength or maturity and they could not therefore be safely entrusted with representative institutions. Glenelg was, as secretary of state, a politician as well as a statesman, and he had to consider political as well as legal or administrative criteria. But the adoption of Stephen's procedural reforms on the handling of departmental correspondence in 1836 ensured that whatever his ultimate decision he was obliged to listen to the advice of his permanent under-secretary on all these pressing topics.

At the beginning of 1835 the British government decided to control

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1. Stephen to Howick, 26 Jan. 1832, Grey Papers, Stephen; Murray, The West Indies, pp. 206-7.
 2. Murray, ibid., pp. 214-6.

and regulate one aspect of immigration - the removal to Trinidad of the so-called Liberated Africans, the Negroes who had been released from captured slave vessels and liberated at the Mixed Commission Court in Cuba.¹ This immigration also attracted the attention of the Trinidad government which produced an ordinance to regulate the conduct of the new immigrants as a labour force. A three year indenture was to be imposed under the supervision of the local executive.² The Trinidad ordinance was duly submitted to the legal counsel. Stephen's advice to his superior on the subject was rather subtle. He offered no objection to indentures, even those as long as three years, but this was not because he felt himself on the side of the employer. On the contrary, he judged the law from the point of view of its effect on the labourer. A contract of three years seemed to Stephen long enough to make the employer value his labourer and short enough to ensure that the labourer would be conciliated. He found cause to object only in the inadequate supervision and the indefinite nature of the contracts. Stephen insisted that the stipendiary magistrates who had been appointed to supervise the apprentices should also be responsible for the indentured labourers and that the rations and pay of indentured labourers and apprenticed Africans should be the same.³

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1. Foreign Office to H.M. Commissioner in Havana, 31 Jan. 1835, C.O. 295/109, Printed Paper no. 1.
 2. Hill to Aberdeen, 3 Mar. 1835, C.O. 295/106.
 3. Stephen's report, 18 May 1835, C.O. 323/51, f. 237.

These amendments were endorsed by Glenelg and imposed by order-in-council on Trinidad.¹ Their significance can hardly be overrated.

Unobtrusively, the British government was making itself responsible for the welfare of immigrant labourers whom, it felt, could not adequately protect their own interests in a free labour market. As with slavery questions, Stephen dealt with immigration as a partisan, as the special guardian of the rights of the weaker element in society. The welfare of the African immigrants, he insisted, must be the special concern of the British government. The governor alone should have the right to choose which employers would receive immigrants and he would select according to three main criteria; the facilities for religious instruction which the prospective employer could offer the immigrant, the provisions for the labourer's bodily health and the opportunities which the employer could present for the immigrant to learn a trade which would be useful when his indenture expired.²

Despite his own exacting standards, Stephen was not disposed to frustrate the planters' efforts in the interest of expediency. When the Trinidad government suggested the adoption of a bounty system to attract female immigrants, James Spedding, the Colonial Office clerk, wished to veto their proposal. He felt the project was unlikely to succeed in

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1. Order in council, 15 July 1835, C.O. 295/109, printed paper no. 3.
 2. Stephen's draft reply, 15 July 1835, after Hill to Aberdeen, 13 May 1835, C.O. 295/106.

making up the numerical deficiency of females in the Island and, in any case, such immigration as it did attract would find service with the big plantations exclusively. Stephen did not feel this an adequate reason for using the veto. "It is on bastard rather than on legitimate virtue that almost every social interest is promoted", he reminded Spedding. Any attempt to make society more stable, more domestic and more moral by introducing female immigrants was at least worth trying whoever benefitted financially by it.¹

Stephen also supported the planters' attempts to recruit labourers for Trinidad among the older West Indian islands where sugar cultivation was declining and wages were low:

"It is absurd for the planters of Dominica to maintain that their black neighbours must stay to partake of their own poverty when high wages and increased comforts invite them to Trinidad".

But he again insisted that this migration should be regulated by the British government. Since the newly freed Negroes were still unaccustomed to a free labour market, it was essential to limit their absolute freedom of choice by imposing contract regulations on them such as had been adopted for the Liberated Africans. This would ensure that the terms of work were fair and that the labourer would have the right to return home if he so chose. He recommended the extension to Trinidad of an order in council worked out for British Guiana which limited contracts to three years terms

1. Hill to Glenelg, 17 Sept. 1836, Stephen's minute 8 Apr. 1837 on Spedding's memorandum, 21 Feb. 1837, C.O. 295/112.

and supplied the safeguards which he thought desirable.¹

Though willing to allow the migration of Negroes between the West Indian colonies, the Colonial Office consistently refused to allow the direct immigration of Negroes from Africa. Such a migration, it was felt, would resemble the slave trade in the eyes of other countries too much to be tolerated.² By 1837 Stephen had a further objection. Though he had considered the abolition of slavery a Christian duty,³ though he had looked tolerantly on the Negro state in Haiti,⁴ he was not willing after 1833 to start on his troubles again. If any bounty money was available for emigration, he felt, it would be best to offer it in Europe not Africa:

"The less we people the Western hemisphere with Africans or their descendents the better. I cannot doubt that of all the members of the human family they are the least calculated to advance the great ultimate objects of civilization. Beyond doubt they are the worst adapted to amalgamate with the natives of Europe into one homogeneous society".

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1. Hill to Glenelg, 17 Sept. 1836, minutes and memoranda by Stephen, 8 Feb. 1837, 19 Feb. 1837, 8 Apr. 1837; and by Spedding, 21 Feb. 1837, 24 Apr. 1837, C.O. 295/112. The limit was reduced to one year if the contract was made outside the colony in which the work was to be performed. In 1838 this was amended and all contracts were to be made in the colony. Laurence, Jamaican Historical Review, V, 1, 1965, p. 11.
 2. Hill to Aberdeen, 3 Mar. 1835, minutes by Taylor and Grey, C.O. 295/106.
 3. Stephen to Taylor, 29 June 1827, Bod. MS. Eng. letters c3, f. 84.
 4. Stephen's memorandum, 6 July 1832, Grey Papers, Slavery.

Maltese, he advised, not Africans would make the better immigrants for
¹
 Trinidad.

This opinion exhibits an awareness of racial differences and an assumption of white superiority to the Negro which was perhaps a deep undercurrent in Stephen's humanitarian conscience. This is not altogether surprising. The concept of race was everywhere assuming greater importance
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 in British thought at this time. Normally with Stephen it remained well below the surface; but undoubtedly his motivation in struggling for the recognition of the Negro's rights as a man stemmed paradoxically from this feeling of white superiority. It was not justice for the Negro that
³
 Stephen asked but "an enlightened and liberal policy" towards him. It was not a true appreciation of Negro society that he felt the British
⁴
 government should show but merely tolerance and sympathy. Where the Negro was the predominant element in a white-dominated society these distinctions became blurred, but the idea of creating a new African diaspora brought it into sharp focus. Stephen's alternative suggestion of Maltese emigration, however, proved quite impractical and the notion of further non-white

1. Hill to Glenelg, 17 Sept. 1836, Stephen's minute 8 Apr. 1837 on Spedding's memorandum 21 Feb. 1837, C.O. 295/112.

2. Philip Curtin, The Image of Africa (Madison, Wisconsin, 1964), pp. 289-478. X

3. Hill to Glenelg, 9 Dec. 1836, Stephen's minute 27 Jan. 1837, C.O. 295/112.

4.. Hill to Glenelg, 12 Jan. 1838, Stephen's minute 28 Feb. 1838, C.O. 295/120.

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immigration had still to be faced.

Stephen's concern for the immigrant was matched by his solicitude for the welfare of the apprentice. To him apprenticeship so closely resembled slavery that the legal distinction seemed immaterial.² While apprenticeship lasted he felt it impossible to slacken his customary vigilance.³ He searched out and stopped all attempts to entrench the legal distinctions of slavery, insisting that legal inequality should not outlast the period of apprenticeship.⁴ Equally, he insisted, the planters, who were the main beneficiaries of the apprenticeship system, ought to be liable to the same taxation burdens which they had borne during the slavery era. This was an extremely unpopular doctrine with the Island's plantocracy but Stephen convinced Glenelg to implement it.⁵

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1. Hill to Glenelg, 17 Sept. 1836, Grey's minute 7 Dec. 1837 on Spedding's draft, 27 Apr. 1837, C.O. 295/112.
 2. Stephen's report 17 Apr. 1835, C.O. 323/51, f. 233; Hill to S. of S., 26 Jan. 1835, & draft reply, C.O. 295/106.
 3. E.g. Hill to Glenelg, 7 Feb. 1836, minutes, C.O. 295/110; Hill to Glenelg, 9 Apr. 1836, draft reply, C.O. 295/110; Hill to Glenelg, 20 Nov. 1836, minutes, C.O. 295/112.
 4. E.g. Stephen's report 17 Sept. 1835, C.O. 323/51, f. 233; Hill to Glenelg, 25 July 1837, minutes, C.O. 295/115; Hill to Glenelg, 17 Sept. 1836, Stephen's report 8 Feb. 1837, C.O. 295/112.
 5. Hill to Aberdeen, 21 May 1835, Stephen's minute 9 July 1835, C.O. 295/106; Burnley to Glenelg, 26 Dec. 1835, C.O. 295/109; Hill to Glenelg, 9 Jan. 1836, no. 77, minutes, C.O. 295/111; Burnley to Glenelg, 5 Dec. 1836, minutes, C.O. 295/113.

The defence of the rights of apprentices and the attempt to safeguard their future civil rights was Stephen's main contribution to the working of the apprenticeship system in Trinidad. There is evidence, however, that he distrusted the whole notion of an apprenticeship for freedom and certainly he frequently carried his defence of apprentices' rights further than his official colleagues thought desirable. In 1836, for example, he took exception to an attempt by the Trinidad executive to improve the abysmal state of communications on the Island. By passing a capitation road tax they had hoped to compel all those inhabitants who were unwilling or unable to pay, to labour on the construction of roads in their free time. Henry Taylor thought this an admirable scheme which would allow the state to impress the virtues of labour upon the mind of the Negro. Stephen disagreed. The tax, he pointed out, rested on the traditional assumption that the Negro was a naturally idle person who must be compelled to work in his own interests - an assumption which could be made to justify slavery. If limited to the period of apprenticeship, the proposed tax could be allowed but it could hardly be justified:

"Compulsory industry is a contradiction in terms, for industry is a virtue and it is of the essence of a virtue to be voluntary. We shall never improve the moral character of the negroes by compelling them to work for the tax gatherer".

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Taylor's opinion was overruled in favour of Stephen's.

1.. Hill to Glenelg, 26 July 1837, Stephen's minutes 29 Sept. 1837, 10 Oct. 1837, Taylor minute 4 Oct. 1837, Grey's minute 11 Oct. 1837, & draft order in council, C.O. 295/115.

In 1838 the British government decided to try to end the apprenticeship system prematurely on August 1, 1838, although it had been previously determined that predial labourers would continue as apprentices until

¹1840. Since legislation on the subject was to be adopted by the local colonial legislatures, the government had to work by persuasion even in the crown colonies like Trinidad. This proved no simple task. The Trinidad planters who had seen their free labourers drift away to establish small-holdings for themselves were resolved to stand by their promised rights to their two further years of compulsory labour.²

The termination of apprenticeship had been decided upon in parliament and thereafter parliament maintained a watch on the local proceedings.³ As a result most of the important minuting in the Colonial Department was left to the parliamentary under-secretary, Sir George Grey.⁴ But Stephen could not resist the chance to intervene when the Trinidad planters in the local council proved intransigent. He agreed that the government was pledged to a two-year extension but the fact that the older colonies had

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1. W.L. Burn, Emancipation and Apprenticeship, pp. 333-361.
 2. Hill to Glenelg, 2 Feb. 1838, No. 17, C.O. 295/120; Hill to Glenelg, 27 Feb. 1838, No. 21, minutes, C.O. 295/120; Hill to Glenelg, 17 Mar. 1838, C.O. 295/120; Hill to Glenelg, 21 Apr. 1838, C.O. 295/120.
 3. C.H.B.E., vol. ii, pp. 332-3.
 4. Hill to Glenelg, 2 Feb. 1838, No. 17, Stephen's minute 16 Mar. 1838, C.O. 295/120; Hill to Glenelg, 12 May 1838, No. 48, minutes, C.O. 295/121.

decided to abolish apprenticeship made it impracticable for the government to maintain its pledge. He advised that the planters should be warned of the consequences of their intransigence:

"The Trinidad council must not indulge the expectation that their refusal to adopt this measure would really prevent the adoption of it, although it may deprive them of the opportunity of conciliating the gratitude and goodwill of the labouring population". 1

This was too strong language for Grey's tastes and he removed the threat in sending his reply.² Glenelg's thinking, however, was obviously closer to Stephen. At the beginning of September, 1838, still under the impression that the Trinidad council would reject the suggestion to terminate apprenticeship, Glenelg and Stephen prepared an order in council to impose the measure on the Island.³ Fortunately, the Trinidad council had already given way. In July 1838, some of the leading supporters of continued apprenticeship fled the Island and the governor was able to get the measure through the council. With an appropriate flourish which must have pleased Stephen, the amendment was finally proposed by one Dr. Philip, the first coloured man on the council.⁴ The draft order was withdrawn and tempers subsided in the Colonial Office when the news arrived.⁵

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1. Hill to Glenelg, 5 June 1838, No. 59, minutes, C.O. 295/121.
 2. Hill to Glenelg, 5 June 1838, No. 59, Stephen's minute, 17 July 1838 & Grey's draft, 30 July 1838, C.O. 295/121.
 3. Hill to Glenelg, 21 July 1838, No. 79, minutes, C.O. 295/121; Stephen's draft order in council, 12 Sept. 1838, Council, C.O. 295/123.
 4. Hill to Glenelg, 22 July 1838, Private, C.O. 295/121.
 5. Hill to Glenelg, 21 July 1838, No. 79, Grey's minute, 13 Sept. 1838, C.O. 295/121.

Having terminated apprenticeship for former slaves, the Colonial Office again had to consider the relation between labourer and employer in a free society. For Trinidad they were immediately given the assistance of local ordinances defining the mutual rights and responsibilities of masters and servants, setting up a new system of summary jurisdiction and creating and regulating a new police force.¹ These ordinances were sent to Stephen for his opinion. Parts of them could be ignored since they had been superseded. The British government had also decided to legislate for the crown colonies on free labour and their order in council of 7 September 1838, "the handmaiden of emancipation", had been transmitted to the colonies before the local legislation arrived. This order summarised the experience which the office under Stephen had gained by regulating contracts for free West Indian Negroes and for Liberated Africans. It allowed contracts for up to a year if made within the colony in which the labour was to be performed under the customary regulations and subject to the enforcement of the stipendiary magistrates.³ While these regulations

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1. Hill to Glenelg, 28 June 1828, No. 66, & Hill to Glenelg, 10 Aug. 1838, No. 80, C.O. 295/121. The ordinances were framed under Grey's instructions; Hill to Glenelg, 12 May 1838, No. 48, Grey's minute 27 June 1838, C.O. 295/121.
 2. Hill to Glenelg, 23 Aug. 1838, No. 83, Stephen's minute 8 Oct. 1838, C.O. 295/121.
 3. Order in council, 7 Sept. 1838, P.P., 1846, xxvii (168).

made much of the Trinidad ordinances unnecessary, much still remained to be considered.

Stephen offered two general criticisms. His first contention was that the powers of the local executive over its police forces should be completely independent of the council and that all appointments should be subject to the crown's veto. This would ensure that the administration of justice was kept outside the direct influence or control of the planters. His second comment took this further. Stephen strenuously opposed the governor's attempt to extend the powers of Trinidad's justices of the peace to cover cases of summary punishments for common assaults. Since the J.P.s in Trinidad were exclusively proprietors, such a power would subject the happiness and liberty of the labourers to the sense of equity and forbearance of employers. A more just and effective system, in Stephen's opinion, would be to allow a process of summary trial by a jury composed of men of the same class as the accused. Glenelg¹ agreed with his under-secretary and forwarded these views to the colony. In doing so he undertook for the government not only to safeguard Negro civil rights but to try and guarantee those rights by an impartial judicial system.

The continuance of apprenticeship during most of Glenelg's secretaryship decided Stephen's attitude towards constitutional reform in Trinidad. Initially he grew less rather than more liberal in dealing with the local

1. Hill to Glenelg, 23 Aug. 1838, No. 83, minutes by Stephen, Taylor and Grey, C.O. 295/121.

council. In 1835, when the council refused to pass a law taxing the owners of apprentices, Stephen minuted:

"I am inclined to think that this is a proper opportunity for proving that the king in council is stronger than they are". 1

This was a highly controversial judgment. Not since 1831, when Trinidad had been granted a legislative council, had coercion been applied to the council by the British government on a purely local question. Even Stephen was forced to admit later that his advice may have been injudicious in practice though justifiable in theory. 2 But he had Howick's support and Glenelg was prepared to abide by their verdict. 3

Glenelg perfectly expressed their united opinion in a dispatch to William Burnley, one of the leading planter members of the Trinidad council. The British government, Glenelg said;

"recognises to the fullest extent the principle that the legislative power of the King in Council over those Colonies which are subject to it should be used most abstemiously in originating laws for their government; and that this authority must be considered as reserved for the greater and unusual exigencies of the public service. On the other hand his Lordship cannot admit that it is a right which could be abandoned with safety to the interests of the colonies in question until they shall possess local legislatures fairly representing the interests, opinions and feelings of the different classes of the inhabitants". 4.

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1. Hill to Aberdeen, 21 May 1835, No. 41, Stephen's minute 9 July 1835, C.O. 295/106.
 2. Burnley to Glenelg, 5 Dec. 1836, Stephen's minute 16 Dec. 1836, C.O. 295/113.
 3. Burnley to Grey, 26 Dec. 1835, C.O. 295/109; Journal entry for 2 Feb. 1836, Grey Papers, Journals.
 4. Burnley to Glenelg, 26 Dec. 1835, draft reply 15 Feb. 1836, C.O. 295/109.

This implied both that the colonies were moving towards a state where representative institutions would be conceded and also that political maturity would be signified by the abandonment of minority rule. But since the introduction of an elective element had been ruled out for the immediate future, it was difficult to see how the state of maturity could¹ be reached.

Stephen's solution was simple. The unofficial members of the council should be chosen from outside the white plantocracy, either from the professional or the commercial classes or, preferably, from "someone of² African descent" suitably qualified as a counsellor. He would have been prepared to issue a policy statement on the question. He strongly recommended to Glenelg making:

"an announcement that it was intended to change the composition of the Council by introducing coloured people, merchants, professional men etc. to destroy the existing authority of the planters. With such a Council it might be needless to interfere".

For once Glenelg would not support Stephen's view. The time for such an announcement, he told his under-secretary was still "not ripe".³

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1. Hill to Glenelg, 4 Jan. 1836, No. 1, drafts, C.O. 295/110.
 2. Hill to Glenelg, 19 Aug. 1836, No. 112, Stephen's minute 5 Oct. 1836, C.O. 295/112.
 3. Burnley to Glenelg, 5 Dec. 1836, Stephen's minute, 16 Dec. 1836, C.O. 295/113.

The final termination of slave apprenticeship in Trinidad had two incidental results. It turned the attention of the Island's planters to the possibility of reviving immigration by new methods and, by removing one of the main objections to the grant of representative institutions,¹ raised again the question of constitutional reform. Glenelg was able to avoid a general reconsideration of both issues before his departure from the office, leaving to his successor, Lord Normanby, an embarrassing legacy. Normanby, however, in his very short period in office was far from eager to grapple with difficult problems and perfectly prepared to let the matter drift.²

Once given a free choice, many former slaves in Trinidad, as the planters had feared, preferred to leave the plantations, despite the high level of wages, and to set up as independent or semi-independent agricultural producers. To recoup their labour force, the planters in the council secured the adoption of an emigration programme paid by the local treasury. This was designed to supply emigration agents in countries with suitable potential emigrants and to provide fare-paid passages for the immigrants they were able to recruit.³ The planters also attempted to persuade the secretary of state to allow them to recruit emigrants in Africa and to

1. W.H. Burnley, Observations, p. 4.

2. Macgregor to Normanby, 23 Apr. 1839, No. 2, minutes, C.O. 295/126.

3. Hill to Glenelg, 11 Dec. 1838, No. 120, C.O. 295/122.

legalize labour contracts made outside the colony. Normanby offered no opinion on these subjects. Stephen, who was too busy coping with his superior's inefficiency to deal with the problem personally, could do no more than simply insist upon a strict adherence to the rules already established and, predictably, to exhort his subordinate clerks to ensure that the interests of the potential immigrants were scrupulously safeguarded.²

On the constitutional question, Normanby's lassitude did result in one interesting experiment. In 1832 Stephen and Howick had planned and completed a division of the old colonies in the Lesser Antilles into two groups, one of which was composed of the Windward Islands of Barbados, Grenada, St. Vincent and Tobago. In each island a lieutenant governor was appointed as chief executive under the supervision of the Governor who normally resided in Barbados but made annual visits to all the other islands in his group. This reorganisation was seen as both politically and economically desirable in that it provided a measure of unity (and, hopefully, also an impartial executive aloof from local prejudices). It would also be cheaper than a system of separate governorships.³ Matters of purely

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1. Hume to Normanby, 25 May 1839, C.O. 295/128; Mein to Normanby, 11 Apr. 1839, No. 14, C.O. 295/125.
 2. Mein to Normanby, 6 May 1839, No. 27, minutes; C.O. 295/125; Hume to Normanby, 25 May 1839, minutes, C.O. 295/128.
 3. Howick to Stephen, 29 Aug. 1832, Grey Papers, Private Letter Book, 1831-3, p. 91; Stephen to Howick, 31 Aug. 1832, Grey Papers, Stephen. Stephen saw support for such a plan coming from "anti-slavery people" and it was obviously the possibility of an independent executive acting in the interests of the majority which attracted him to the idea.

local concern might be settled by the governor general without reference to Britain and the executive federation would also tend to encourage a¹ movement towards a more general consolidation of West Indian islands.

In 1836 Stephen had suggested that on a change of governor Trinidad² should be brought into the executive federation of the Windward Islands. He was increasingly dissatisfied with the governor, Sir George Hill, who was far from active in his duties³ and it seems possible that after two years of tension it was Stephen who persuaded Glenelg to replace him. At any rate, in 1838 it was decided to remove Hill, whose term of office had already considerably exceeded the regulation period, and then to take the opportunity to place the new lieutenant governorship (with a reduced salary) under the authority of the governor general of the Windward Islands.⁴ At that point Glenelg resigned. Normanby, however, though he knew nothing at all about the arrangement when pressed for a decision by his under-secretary, allowed⁵ the changes to proceed.

Unfortunately, Glenelg had failed to explain the plan with sufficient clarity either to Hill's successor, Sir Henry Macleod, or to the governor

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1. Murray, The West Indies, pp. 181-3.
 2. Hill to Glenelg, 9 Dec. 1836, Private, minutes, C.O. 295/112.
 3. War Office to C.O., 27 Mar. 1837, Stephen's minute, 7 Apr. 1837, C.O. 295/118.
 4. Treasury to Stephen, 29 Dec. 1838, minutes, C.O. 295/123.
 5. Macgregor to Normanby, 23 Apr. 1839, No. 2, minutes, C.O. 295/124.

general, Sir Evan Macgregor, and, by the time Normanby had done so, misunderstandings had resulted. Macleod, the ex-governor of St. Kitts and a man who enjoyed his comforts, seems to have suspected that the salary had been reduced purely as an economy measure and, on learning of his appointment, he sailed for London in the hope of bargaining with the Colonial Office for the restoration of at least part of the original salary.² Normanby, faced with this opposition to the new arrangements close at home as well as in the colony, was determined, characteristically, to give way. Stephen had to work hard in order to convince him that the scheme ought at least to be given a trial.³ Even then Normanby insisted on a compromise. Despite the fact that the coloured inhabitants, to Stephen's delight, sent an address to the secretary of state urging their support for the new arrangements, Normanby decided that Macleod should be told that the government would re-open the question provided he and his council could produce new reasons for reverting to the original constitutional position.⁴

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1. Macgregor to Normanby, 10 Apr. 1839, No. 1, C.O. 295/126; Draft Instructions to Macleod, 8 Feb. 1839, C.O. 295/126; Draft Instructions to Macgregor, 3 Mar. 1839, C.O. 295/126.
 2. Macgregor to Normanby, 10 Apr. 1839, No. 1, C.O. 295/126; Macleod to Normanby, 30 May 1839, C.O. 295/126.
 3. Macgregor to Normanby, 23 Apr. 1839, No. 2, minutes, C.O. 295/126.
 4. Macgregor to Normanby, 8 June 1839, No. 3, minutes, & Macleod to Normanby, 30 May 1839, minutes, C.O. 295/126.

If Stephen's attempt to render the Trinidad executive independent of local pressures in the council met with difficulties through Normanby's weakness, the pressure groups in the council were equally unsuccessful in moving the new Secretary. They attempted to subordinate the governor to their control through the appointment of an independent agent to act as an intermediary between themselves and the government. Stephen considered the suggestion and rejected it out of hand:

"The governor is an essential and integral part of the Council. It is through the governor only that communications can properly pass between the Council and the ministers of the Crown".

Assemblies had been allowed agents by tradition but Stephen refused to consider the unrepresentative Trinidad legislative council as a popular assembly. Normanby agreed to abide by Stephen's verdict.

Though inflexible on the general constitutional position, Stephen became increasingly less disposed to interfere in the internal concerns of the colony. Even on an issue as important to him as Negro rights he was prepared to give way a little, once apprenticeship was over. When, for example, his attempt to secure a system of trial by jury was opposed by the acting governor and the council, he agreed to compromise. The council had suggested the submission of all cases involving summary punishments to the courts of stipendiary magistrates, whose impartiality was ^{less.} unquestionable, and agreed to lower the punishments involved.² Henry Taylor supported

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1. Mein to Normanby, 25 Apr. 1839, No. 24, Stephen's minute, 14 June 1839, C.O. 295/125.
 2. Hill to Glenelg, 3 Jan. 1839, No. 1, C.O. 295/125.

them provided they agreed to allow two magistrates to sit at each session instead of one as they had recommended and to permit an appeal when the magistrates disagreed. In view of the categorical rejection of his own hope for a trial by jury system, Stephen felt this the best that might be gained and Normanby acquiesced in his judgment. Stephen justified his new opinion on theoretical grounds. There seemed less point to him in quibbling over details when, by leaving the local laws to their operation, he could ensure that the council itself would have to learn from experience¹ and, in time, make the necessary adjustments itself.

With Russell at the head of the department, the Normanby ethos of indecision disappeared. Russell was quick to make up his mind on Trinidad's problems and to suggest a course of action. Within a few months of taking office he was publicising the government's immigration policy. He had decided to allow colonial finances to be used to assist immigration from several countries, though still excluding the whole of Africa, and to retain the strict regulations which had been devised by the Colonial Office to protect potential immigrants.² His action brought him what no doubt he desired - the attention of the planters. William Burnley, the newly appointed general agent for Trinidad immigration, replied by sending Russell a long letter in which he advanced the comforting thesis that the suppression

1. Hill to Glenelg, 19 Jan. 1839, No. 6, C.O. 295/125.

2. Circular, Russell to West Indian Governors, 5 Nov. 1839, P.P. 1840, xxxiv (82).

of the African slave trade, on which the government had spent vast sums, could be finally achieved by a successful demonstration of the economic superiority of free over slave agricultural labour on Trinidad's plantations.¹ His letter earned him an interview with Russell at which he was invited to set out his views in detail in a memorandum for the Colonial Office.²

Burnley's main contention was that Trinidad's real weaknesses were the shortage of labourers and the lack of a middle class. He proposed to overcome both these obstacles by a plan of Negro immigration. Canada and the United States would provide educated Negro immigrants to supply the missing bourgeoisie. Their presence, in turn, would attract free labouring immigrants from the other West Indian islands, from Central America and the Liberated African stations in Cuba and Brazil. Free labour at work in Trinidad would then outproduce and undersell slave labour and slavery would be extinguished. But none of this would be achieved without at least two changes in imperial regulations governing land sales and immigration. Although Glenelg had decided to stop all grants of crown land his efforts had failed to prevent squatting on private as well as on crown lands. It was vital to the success of Burnley's plan that squatting should be stopped and that crown land should be sold in sizeable lots at a high price in order to attract capital, provide an immigration fund and prevent labourers from

1. Burnley to Russell, 30 Nov. 1839, minutes, C.O. 295/127.

2. Burnley to Russell, 13 Dec. 1839, C.O. 295/127.

acquiring property too soon. To get planter support Burnley suggested that short-term contracts made with immigrants in countries outside Trinidad should be allowed. Finally, he proposed that the import duties on tobacco and cotton reaching Britain from Trinidad should be abolished to encourage the production of those staples in the Island.

Burnley's views obviously impressed Russell and, equally, his reasoning left Stephen cold.¹ Stephen felt, quite reasonably, that since estates were being deserted by their owners all over the West Indies, it was very difficult to imagine any great immediate demand by capitalists for land sales, though he did not oppose making an exploratory attempt. He also believed that Trinidad was not suitable for the cultivation of cotton and tobacco on account of its climate and soils. To him the real weakness in Trinidad's economy could be attributed to one general cause which affected the West Indies as a whole - absentee proprietorship in the plantations:

"We are still retaining the commercial and proprietary habits which formed an intelligible part of the old slave system, but which are glaringly absurd now....If West Indian proprietors are to have permanent incomes they must either let their estates or live upon them".

To save the Trinidadian economy what was required was not desperate attempts to revive a flagging capitalist industry but frugal agricultural production and a willingness to use crops which might yield only a small return on the

1. Burnley to Russell, 13 Dec. 1839, minute by Russell, 16 Dec. 1839, C.O. 295/127.

owner's outlay.¹

Despite these criticisms, Russell insisted on making further enquiries into Burnley's proposals.² While these were pending a new immigration crisis arose in Trinidad. In December 1839 the first of several hundred European immigrants (mainly French and Germans) arrived in the Island.³ Five months later the governor informed the Colonial Office that one tenth of them had died and the rest were in a wretched state since they had failed to acclimatise themselves and had been unable to get adequate medical attention. The governor, supported by Stephen, strongly advised Russell to take action to inform prospective European immigrants of the calamity.⁴ The creation of the Land and Emigration Commission in 1840, however, led to a postponement since Russell insisted upon referring all emigration questions to them.⁵ Stephen seems to have been rather annoyed at this decision. He appreciated expert advice but in this case Russell was abdicating responsibility in favour of an ^{as yet} uninformed subordinate agency. When the Commissioners' report arrived at the Colonial Office the question was found to be

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1. Ibid., minutes by Stephen, 18 Dec. 1839, and 21 Dec. 1839.
 2. Ibid., minute by Russell, 24 Dec. 1839, C.O. 295/127.
 3. Macgregor to Russell, 20 Dec. 1839, No. 50, enclosing Mein to Macgregor, 14 Dec. 1839, C.O. 295/126.
 4. Macleod to Russell, 29 May 1840, No. 20, minutes, C.O. 295/130.
 5. Macleod to Russell, 29 May 1840, No. 20, minutes by Smith and Russell, C.O. 295/130.

no further advanced. Since they knew nothing of Trinidad's circumstances before 1840, the Commissioners could only express their sympathy with the lot of the Europeans and make vague suggestions about other possible locations and employments more suitable for Europeans. On their report Stephen minuted with obvious point:

"It does not appear to me that this contributes any information or suggestion of which any use could be made".

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His superiors were forced to agree.

The intervention of the commissioners, however, was not always rejected by Stephen in this way. Once they had acquired some specialist knowledge and their reports became more positive he was prepared at times to support them.² He approved of their suggestion of altering Burnley's proposals on land sales, for example, since, in company with the acting governor to whom Burnley's report had been referred, they favoured the selling of land in small lots of forty to fifty acres at £1 an acre and advocated the creation of villages with half acre allotments near the plantations. This went some way towards meeting Stephen's objections to the monopolisation of land ownership by the sugar planters and he clearly thought it a suggestion worth considering.³ Two years after the creation of the Board it was Stephen

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1. Colonial Land and Emigration Office to Stephen, 1 Aug. 1840, minutes, C.O. 295/132.
 2. Macleod to Russell, 8 June 1840, No. 26, minutes, C.O. 295/130.
 3. Colonial Land and Emigration Office to Stephen, 4 Aug. 1840, C.O. 295/132.

who was insisting on obtaining the Commissioners' advice and the secretary¹ of state, Lord Stanley, who felt reluctant.

A more surprising development was Stephen's espousal of the planters' demands for the recruitment of labour in Africa. As the decline of the West Indian plantations had coincided with the rise of the slave-grown plantations of Cuba and Brazil, Stephen became convinced that the government was morally obliged to give some aid to the British planters in their attempts to revive the free sugar industry.² In Sierra Leone the growing population of Liberated Africans, released in Freetown from slave ships, was proving a difficult administrative problem.³ The Trinidad planters had frequently asked for permission to recruit among them and in 1840 Stephen came round to supporting them, perhaps impelled by the possibility of killing two administrative birds with one stone. Sierra Leone, being a crown colony, was under the close supervision of the government and by limiting recruitment to the colony immigration regulations could be made effective.⁵

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1. Macleod to Stanley, 21 Oct. 1841, No. 2 minutes, C.O. 295/134.
 2. Colonial Land and Emigration Office to Stephen, 3 Dec. 1841, Stephen's minute, 11 Dec. 1841, C.O. 295/135.
 3. Doherty to Russell, 20 Mar. 1840, No. 9, C.O. 267/159.
 4. E.g. Hume to Normanby, 25 May 1839, C.O. 295/128.
 5. Doherty to Russell, 20 Mar. 1840, No. 9, Stephen's minute, 1 June 1840, C.O. 267/159; Macleod to Russell, 21 July 1840, No. 42, C.O. 295/130; order in council, 8 Dec. 1840, Council, C.O. 295/132.

It may be that Stephen was simply devising suitable means for implementing the government's policy since Russell himself had decided to give the planters aid by altering the regulations. At his behest the ban on contracts made in Europe was raised;¹ and just before leaving office Russell went as far as to state that his policy had been to eliminate gradually the impediments which had been placed on the introduction of free labour into Trinidad.² But this was an exaggeration. With Stephen at the legal helm, the office, despite Burnley's efforts, had in no way departed from the general policy of government oversight and control.³

On the question of the colony's constitution, however, Russell defied the opinion of his under-secretary and reversed the decision which Stephen had wished to adopt. The Trinidad council and plantocracy greatly resented the proposal to subordinate their executive to the control of the governor general in Barbados, and Macleod, Trinidad's new governor, resented it even more.⁴ Initially Stephen was able to bring Russell round to his point of view,⁵ and this decision might have been allowed to stand but for one

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1. Order in council, 23 June 1841, P.P. 1846, xxvii (168).
 2. Macleod to Russell, 25 June 1841, No. 59, minutes, C.O. 295/133.
 3. E.g. Macleod to Russell, 18 Feb. 1841, No. 9, minutes, C.O. 295/133.
 4. Macgregor to Normanby, 6 July 1839, No. 12, enclosing Mein to Macgregor, 25 June 1839, C.O. 295/126; Macleod to Russell, 18 Oct. 1839, C.O. 295/126.
 5. Macgregor to Normanby, 6 July 1839, No. 12, Stephen's minute 6 Sept. 1839 and Russell's minute 13 Sept. 1839, C.O. 295/126.

exceptional circumstance. Governor Macleod, despite his orders to return to his post, remained in London and in touch with the secretary of state¹ for over a year after his appointment. By threatening resignation and by hinting at further reprisals he won the ear of the secretary and then offered to compromise. If the role of the governor general was limited to an emergency supervisory power and if the governor of Trinidad was allowed to correspond directly with the secretary of state and if his salary was slightly raised, he would return to his post.²

Stephen objected to any compromise on this issue since this would undermine the general plan but he was overruled.³ A new set of commission and instructions was prepared which left Macleod in sole charge of the day-to-day administration of Trinidad. But Stephen's opinion was not entirely ignored. The governor general in addition to emergency powers retained supreme authority with the right to intervene at any time that he thought necessary, and not only when requested, as Macleod had suggested.⁴ Even so, Stephen felt the compromise was a sell-out to the white minority.⁵

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1. Macleod specialised in avoiding his duties. See Macleod to Stanley, 29 Apr. 1845, Private, memo. by Talbot, 9 June 1845, C.O. 295/146.
 2. Macleod to Russell, 18 Oct. 1839, minutes, C.O. 295/126; Macleod to Russell, 25 Nov. 1839, minutes, C.O. 295/126.
 2. Macleod to Russell, 5 Dec. 1839, C.O. 295/126.
 3. He listed his objections in a memorandum to V. Smith, 17 Oct. 1839, after Macleod to Russell, 18 Oct. 1839, C.O. 295/126.
 4. Draft instructions, 19 Dec. 1839, C.O. 295/126; Macgregor to Normanby, 26 Sept. 1839, No. 35, enclosing Mein to Macgregor, 13 Sept. 1839, minutes, C.O. 295/126.

He had the dubious satisfaction, however, of finally convincing Russell that he must order Macleod peremptorily to his post on pain of losing his appointment and to refuse Macleod's claims for an increase in salary until¹ he had departed. It was a hollow victory. Macleod was able to secure an increase in salary from his council immediately after his arrival in the colony by pointing out that this would imply Trinidad's independence² of Barbados. Stephen's only success was a paper one. The governor general remained theoretically superior, but, after Macgregor's retirement, even the extra salary which the governor general received for his responsibility in Trinidad was dropped.³ Within a few years, even the formal subordination to Barbados was removed.⁴

Lord Stanley, Russell's successor, was more of a supporter of the planters' viewpoint than his predecessors. It was Stanley, for example, who finally took the decision to allow Trinidad to break its ties with the governor general at Barbados and he did so explicitly in order to gratify⁵ the wishes of the ruling minority. Equally on questions of immigration

5. Macgregor to Normanby, 31 Dec. 1839, No. 51, minutes, C.O. 295/126.

1. Macleod to Smith, 18 Feb. 1840, minutes, and 28 Feb. 1840, minutes, C.O. 295/129.

2. Macleod to Russell, 13 May 1840, No. 15, minutes, C.O. 295/130.

3. Macleod to Russell, 3 July 1841, No. 67, minutes, C.O. 295/133.

4. Macleod to Stanley, 28 Dec. 1841, No. 22, minutes and draft commission 11 Apr. 1842, C.O. 295/134. The lieutenant governorship was raised to a full governorship in 1846 now with Stephen's support: Harris to Grey, 27 Aug. 1846, No. 51, minutes, C.O. 295/151.

5. Macleod to Stanley, 28 Dec. 1841, No. 22, minutes, C.O. 295/134.

and on land policies, the two major administrative concerns of his period in office, Stanley made substantial concessions to the plantocracy.

Gradually, the restrictions which had been imposed on the free immigration of labourers to Trinidad were relaxed. The countries in which labour contracts could be made with prospective immigrants was widened to include North America as well as Europe; and new immigration channels were opened¹ up between Trinidad and the East to bring in Chinese and Indian immigrants. These were major concessions which ultimately altered the racial composition of Trinidad's society and decisively affected its constitutional, social and economic development. In Dr. Williams' opinion Stanley's concessions meant "that the formation of a society as well as a miniature state would² have to be deferred for over a century".²

James Stephen was not entirely pleased with this new development. He was convinced that immigration would provide at best only a partial economic solution to Trinidad's problems while it would distract attention³ from the more serious problem of organising a free society. These differences of opinion made his working relationship with Stanley difficult but it did not silence the under-secretary. Though Stanley ignored⁴ Stephen's political or philosophical observations, he could not entirely overrule the objections which, as legal counsellor, Stephen made when

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1. K.O. Laurence, Jamaican Historical Review, V, i, 1965, pp. 11-12.
 2. Eric Williams, History of the People of Trinidad and Tobago (Port-of-Spain, 1962), p. 97.
 3. Colonial Land and Emigration Office to Stephen, 3 Dec. 1841, Stephen's minute, 11 Dec. 1841, C.O. 295/135.
 4. Colonial Land and Emigration Office to Stephen, 3 Dec. 1841, Stanley's minute, 26 Dec. 1841, C.O. 295/135.

dealing with immigration legislation. Throughout Stanley's secretaryship, in fact, Stephen maintained a vigilant watch on the operation of the new immigration laws reminiscent of his work on slavery before 1836. He insisted on the immigrant's right to be fully informed about labouring conditions in Trinidad¹ and to be compensated when the promised terms were subsequently dishonoured.² He also insisted on a strict observance of the rules governing the transportation and provisioning of emigrants and of regulations governing their recruitment.³ Where concessions were made, as on allowing indentures for Liberated Africans, Stephen examined the new regulations with the immigrant's welfare in mind.⁴ He also relied heavily on the advice of the Land and Emigration Commission which had adopted his role of insisting upon the strict observation of rules protecting the immigrant.⁵

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1. Macleod to Russell, 28 Aug. 1841, No. 86, minutes, C.O. 295/134.
 2. Macleod to Stanley, 27 Jan. 1842, No. 37, minutes, C.O. 295/136.
 3. E.g. Marryatt to Hope, 17 Jan. 1842, minutes, C.O. 295/138; Macleod to Stanley, 29 Nov. 1841, No. 14, minutes, C.O. 295/134.
 4. E.g. Macleod to Stanley, 27 June 1842, No. 64, minutes, C.O. 295/136; Fuller to Stanley, 8 July 1842, No. 68, minutes, C.O. 295/137; Macleod to Stanley, 3 Feb. 1845, No. 13, minutes, C.O. 295/146; British and Foreign Anti-Slavery Society to Stanley, 17 Mar. 1845, minutes, C.O. 295/148; Macleod to Stanley, 5 Aug. 1845, No. 58, minutes, C.O. 295/147.
 5. Macleod to Stanley, 18 May 1844, No. 37, minutes, C.O. 295/143; Colonial Land and Emigration Office to Stephen, 27 July 1844, C.O. 295/145.

Stephen had considerable success in converting his superior to his view on questions relating to land use and land ownership. He had opposed immigration not only as an economic panacea but because he believed that the bulk of the free population in the West Indies would stand to lose by it. Stephen wished to impress on his superior that emancipation had been a great success. It vindicated the Negroes as a race; and though profits on capital investment may have declined this was, in his view, largely compensated by an increase in the material comforts and an improvement in the moral and intellectual state of the people. This progress might be prejudiced by immigration.¹

One of Stephen's comments in 1841 on an immigration plan amounts almost to a political credo and deserves extensive quotation:

"Is it clear that the state of things in Trinidad is not the best possible state of human society as far as relates to the condition of the many - that is of the hand working class? In the partnership which subsists everywhere between the capitalist and the labourer the labourers decline as their numbers increase. But the larger their share the better for society in general if it be not so large as to drive the capital elsewhere in search of profit. If the whole people are employed and are willing to work and if the returns are sufficient to prevent the withdrawal of capital, the only evil is that capital accumulates more slowly than it otherwise would do. But on the other hand there is a prosperous, contented and increasing population. All these arguments are raised by the rich and in the interests of the rich and assume that the rapid increase of wealth and the general good of society are convertible terms - which is at least a debateable point." 2

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1. Colonial Land and Emigration Office to Stephen, 3 Dec. 1841, Stephen's minute 11 Dec. 1841, C.O. 295/135.
 2. Ibid., Stephen's pencil comments on the Board's report.

Stephen would have been extremely dubious about Joseph Chamberlain's concept of estate development. When one governor complained in 1843 about the lack of British loans for developing agriculture he minuted in the margin: "Is the want of this debt any real disadvantage?"¹ To Stephen the welfare of society was a quite different concept from the economic development of its natural resources. Shortly before his retirement, he confessed;

"I never could perceive the wisdom of the eagerness for 'developing the resources' of all parts of the world with which we happen to be connected. To myself it seems no great evil if Trinidad should be left for the next half century to the natural growth of affairs, agricultural, commercial and political".²

Just as a racial streak ran through his humanitarianism, this simple, laissez-faire economic philosophy, the belief in the natural operation of market forces, seems to have underpinned his real concern for the lot of the labourer and peasant proprietor.

The fear that the few and not the many were benefitting from the plantation system undoubtedly coloured Stephen's attitude to the growing numbers of independent and semi-independent agricultural producers in Trinidad. Some of them held their lands as freeholds but a large proportion were simply squatters on land which had been left uncultivated by its owners or ungranted by the crown.³ So great a threat did they pose to the

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1. Macleod to Stanley, 8 Jan. 1844, Separate, C.O. 295/142.
 2. Harris to Gladstone, 21 May 1846, No. 14, Stephen's minute, 20 June 1846, C.O. 295/151.
 3. Colonial Land and Emigration Office to Stephen, 8 Dec. 1841, with report of a Committee of the Agricultural and Immigration Society of Trinidad, C.O. 295/135.

planters that from the beginning of Stanley's secretaryship the local Trinidad government began to press for the removal of the squatters and for the restriction of crown land sales to plantation-sized lots.¹ Stanley was disposed to agree with the planters but Stephen was not. The necessity of framing legislation on the subject allowed Stephen his chance to convert his secretary of state.

When the acting governor, on Stanley's instructions, forwarded a draft order in council to the Colonial Office which was designed to remove the squatters on both crown and private lands, Stephen pronounced it objectionable. In his view squatting was not criminal but quite inevitable in a country with Trinidad's ample supply of free and fertile land.² Laws alone, he insisted, could not prevent the general desire of a plantation labourer for independence. Short of convict or military rule or slavery there was no way to prevent men from setting up on their own on the unguarded frontier. But even if squatting could be stopped the aspiring independent farmer could buy or rent land since portions of the 1,500,000 acres of uncultivated land in private hands would be offered to him by impoverished landowners or enterprising landlords. Either way his labour was lost to the planter. The plan of a tax on all cultivated lands which

1. Macleod to Russell, 18 Aug. 1841, No. 83, C.O. 295/134.

2. Colonial Land and Emigration Office to Stephen, 30 Nov. 1841, minutes, C.O. 295/135; Colonial Land and Emigration Office to Stephen, 3 Dec. 1841, minutes. C.O. 295/135.

he and Howick had devised still seemed to Stephen the best solution but the colonists would not accept it. The only alternative was to rely on the provisions of the squatting law of 1838 which had been passed on the termination of apprenticeship.¹

Stanley was unhappy with this verdict but after Taylor and the governor, Macleod, who was then on holiday in England, had both written to support Stephen, he was persuaded.² Stephen's opinion was eventually also endorsed by the Land and Emigration Board and put into operation in 1843. As a result those whose squatting claims extended beyond 1834 received a full title to their land. Squatters whose occupation dated from 1834 to 1838 were allowed a title provided they agreed to buy their lands at an arranged price. Those who had squatted after 1838 were merely to be prosecuted under the order in council of that year, as Stephen suggested, which allowed them to claim against landlords who had connived at their squatting in order to attract a labour force to their plantations. Finally, one piece of land extensively used by squatters was to be publicly surveyed and titles distributed to the occupants.³ This unexpected

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1. Chichester to Stanley, 8 Oct. 1842, Separate, Stephen's memorandum 24 Nov. 1842, C.O. 295/137.
 2. Chichester to Stanley, 8 Oct. 1842, Separate, minutes by Stanley, Hope and Taylor, C.O. 295/137.
 3. Chichester to Stanley, 13 Jan. 1843, No. 95, minutes and drafts, C.O. 295/139; Chichester to Stanley, 14 Feb. 1843, No. 102, minutes, C.O. 295/139; Colonial Land and Emigration Office to Stephen, 29 Apr. 1843, minutes, C.O. 295/141.

government support for the small agricultural producer must obviously have encouraged the movement to purchase freeholds and to create agricultural¹ villages which is such a marked feature of Trinidad in the 1840s.

His understanding of legal questions was the main weapon with which Stephen combatted Stanley's customary indifference. At times it proved an invaluable asset, especially when a technical question arose. In 1841, for example, Governor Macleod embarked upon his pet project of assimilating Trinidad's Spanish laws and institutions to English models. He sent proposals for imperial legislation on the subject to the Colonial Office. Stephen scrutinised them. Three years after the final abolition of slavery, he was more sympathetic to such a scheme than he had been before 1838 and now saw it as eminently desirable. But there was a new objection. The anglicized laws and the new procedures (including trial by jury which he had himself advocated earlier without success), Stephen felt, would have to be settled and framed initially in the colony. British attempts to initiate or settle colonial penal codes, he insisted, were doomed to failure:

"The colonial framer of the law will probably commit several blunders but in the main he will be right. If without compromising any English authority the law is at once enacted in the local legislature the advantage is gained, and from this country the errors are pointed out, and either by force of admonition or by force of experience come gradually to be corrected, and perhaps do no great harm while uncorrected. But if such laws are suspended for the signification of the royal pleasure, or are sent here as mere projects, a kind of responsibility is thrown on the government here

1. Macleod to Stanley, 6 July 1844, No. 53, Taylor's report 30 June 1844, C.O. 295/143.

which virtually paralyzes them. Every comprehensive improvement of the Penal Code of every colony where such improvements have been made has been brought about by the method I recommend. As often as the Head of the office has insisted on a preliminary voice in such legislation so often has the scheme proved a failure."¹

Here was both faith in the local legislature (and in the power of his reviews as counsel) and disillusionment with interfering secretaries of state. Stanley was forced to agree with the need for local initiative on legislation but he balked at the prospect of being rendered a rubber stamp and insisted on the right to choose between alternative methods of altering the judicial structure.² Unfortunately for him his attempt to interfere had precisely the effect which Stephen had predicted. When the attempt to elicit alternative suggestions led to deadlock, he was forced to back down.³ Thereafter it was Stephen's opinion which was followed. As the anglicized laws arrived, Stephen tried unsuccessfully to get them examined by the legal counsel to the Home Office in order to ensure a strict comparison with their English models.⁴ The Home Office counsel, however, declared himself incompetent since he had no local knowledge of Trinidad, and Stephen undertook the intricate and wearisome task.⁵ His

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1. Macleod to Stanley, 3 Dec. 1841, No. 16, Stephen's minute 14 Jan. 1842, C.O. 295/134.
 2. Ibid., Stanley's minute 18 Jan. 1842.
 3. Macleod to Stanley, 17 Aug. 1843, No. 41, minutes, C.O. 295/140.
 4. Chichester to Stanley, 1 Jan. 1843, No. 93, minutes, C.O. 295/139.
 5. Bethune to Phillips, 2 June 1843, Home Office, C.O. 295/141.

careful amendments were then incorporated in the laws.¹ Even the thorny problem of laws on inheritance which had baffled the government for years² was successfully overcome in this way.² By the time Macleod left office in 1846, he could boast, thanks in large measure to Stephen, of having³ achieved a revolution in the laws and judiciary of Trinidad.³

Gladstone, as secretary of state, in the main followed the policies of his predecessor. For example, he removed certain further restrictions on immigration labour contracts while retaining the government's supervision⁴ and control and he agreed to the completion of the plan to assimilate the Spanish laws and institutions to English models.⁵ But his most singular contribution was the discussion which he instituted on the future constitution of Trinidad. Though the possibility of introducing representative institutions into the government had been rejected, the idea of creating elective institutions at the municipal level remained. In 1838 the governor and council had proposed to abolish the Spanish cabildo in Port-of-

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1. Chichester to Stanley, 1 Jan. 1843, No. 93, Stephen's report 14 May 1843, C.O. 295/139; Macleod to Stanley, 16 Sept. 1844, No. 69, Stephen's report, 26 Oct. 1844, C.O. 295/144; Macleod to Stanley, 2 Feb. 1845, No. 12, Stephen's report, 15 Mar. 1845, C.O. 295/146.
 2. Macleod to Stanley, 18 Aug. 1843, No. 43, minutes, C.O. 295/140; Macleod to Stanley, 1 Jan. 1844, No. 1, minutes, C.O. 295/142.
 3. Macleod to Stanley, 3 Jan. 1846, Separate, C.O. 295/150.
 4. Gladstone to West Indian Governors, 29 Apr. 1846, P.P. 1846, xxvii (323).
 5. Macleod to Stanley, 16 Oct. 1845, No. 84, minutes, C.O. 295/147.

Spain and to substitute for it an elected municipal government of mayor and aldermen. Though few objected to the disappearance of the Cabildo, the government's unhappy dealings with the Kingston corporation in Jamaica persuaded them to oppose the proposal. Stephen felt that an institution chosen by an electorate mainly of free coloured citizens might be dangerous, since it would lead the free coloured classes to claim the right to represent the popular voice and this might ultimately work against the interests of the Negro majority. But he was still in favour of trying the idea experimentally after the end of apprenticeship. His opinion was accepted.¹

In 1840 the plan was put into operation and the municipal corporation² created. Though the electorate was very small, Port-of-Spain could boast an elected institution.³ Five years later, however, the difficulty which Stephen had foreseen led to a new crisis. The coloured class in Port-of-Spain was becoming increasingly annoyed at the government's policies, especially on immigration and the anglicization of the laws, and they demonstrated their opposition in the municipal council. To combat them the governor used his power of veto and immediately precipitated a request

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1. Hill to Glenelg, 20 Apr. 1838, No. 39, minutes, C.O. 295/120.
 2. Hill to Glenelg, 15 Dec. 1838, No. 123, C.O. 295/122; Hill to Glenelg, 16 Feb. 1839, No. 20, C.O. 295/125; Macleod to Russell, 11 July 1840, No. 36, C.O. 295/130.
 3. Macleod to Russell, 15 June 1840, No. 29, minutes, C.O. 295/130; Tyler to Russell, 13 Jan. 1841, No. 2, minutes, C.O. 295/133.

by the corporation for representative institutions in the colonial legislature.¹ This request was forwarded to the Colonial Office.

Stephen advised Gladstone to give the matter serious consideration but he offered no definite guidance on how to answer it. "I must avow myself," he minuted, "to be ... much prepossessed in favour of the system of governing colonies by a council and assembly (many and obvious as are the objections to it)". But in Trinidad, with its Roman Catholic majority, a popular franchise, in Stephen's opinion, might be turned against Anglicans. Gladstone, obviously perplexed by Stephen's ambiguous advice, decided to reject the request on the grounds that the British section of the population,² by which he meant the planters and merchants, did not support it. Privately, however, Gladstone made known to the governor his support for constitutional reform and recommended a reconsideration of the subject.³

Lord Grey, who succeeded Gladstone, was much more sensitive to Stephen's views on Trinidad than any previous secretary of state since Glenelg.⁴ This was less because of the similarity of their opinions than

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1. Macleod to Stanley, 5 Dec. 1845, Confidential C.O. 295/147, Macleod to Stanley, 3 Dec. 1845, No. 95, C.O. 295/147.
 2. Macleod to Stanley, 3 Dec. 1845, No. 95, minutes, C.O. 295/147.
 3. Gladstone to Harris, 13 Feb. 1846, 29 Apr. 1846 & June 1846, B.M. Add. MS. 44528, ff. 14, 39, 61.
 4. He consulted Stephen on confidential matters immediately on joining the office; see Stephen's letters to Grey, 4 Aug. 1846 et seq., Grey Papers, Stephen.

because of the mutual trust which strikingly altered the way business was conducted. Stephen gave Grey his advice with a frankness which was quite new. He pronounced, for example, on the baneful effects of encouraging Indian emigration in a way which made clear how little he had supported, personally, the government's immigration policies and how determined he had been to retain the regulations on this subject.¹ In return Grey² held himself open for discussions with his permanent under-secretary. But Grey was too dogmatic in his views and too well informed to take dictation even from Stephen. While agreeing with the doubts about coolie emigration, for example, he nevertheless believed that government encouragement and assistance to the sugar industry was in the highest interest of the labourers as well as the planters. He also felt that the white proprietors were the real backbone of Trinidad's society - a very different view from Stephen's.³

These differences of opinion with his chief might have caused Stephen some concern but throughout his last year in office he seems to have worked without his usual energy. He frequently had to confess ignorance of some

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1. Harris to Gladstone, 18 July 1846, No. 30, Stephen's minute 22 Aug. 1846, C.O. 295/151.
 2. Harris to Gladstone, 4 July 1846, No. 22, minutes, C.O. 295/151;
Harris to Gladstone, 17 July 1846, No. 29, minutes, C.O. 295/151.
 3. Harris to Grey, 4 Sept. 1846, No. 58, Grey's minute, 12 Oct. 1846, C.O. 295/151.

very important topic.¹ The loss of his legal duties also made supervision more difficult.² He did continue to interest himself in the welfare of squatters and smallholders³ but apart from this his only singular contribution was a remark on a suggestion by the governor, originating with Gladstone's encouragement, to reform the legislative council. The reform was a compromise and Stephen was unimpressed by it:

"Among the many projects of colonial government which at different times I have had occasion to consider I never before heard of the scheme of a legislature composed of three classes, viz. office-holders, unofficial nominees of the Crown and members elected by the people. I avow a rooted distrust of all such theoretical innovations. I believe that the elected members would render the rest impotent and helpless, that the unofficial nominees would rival them in the race for popularity, and that we should have one of the most unmanageable bodies which it is possible to constitute. I am convinced that the old scheme of a Governor, Council and Assembly is far better than anything which has ever yet been proposed as a substitute for it".⁴

But Grey had already decided against the introduction of representative institutions and the idea was dropped even before Stephen left office.

As his remarks on African and Asian immigration in Trinidad show,

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1. E.g. Harris to Grey, 20 Jan. 1847, Private, Stephen's minute 23 Feb. 1847, C.O. 295/156.
 2. E.g. Rogers's report, 5 Aug. 1847, Stephen's minute 2 Sept. 1847, C.O. 323/62, f. 372.
 3. E.g. Harris to Grey, 28 Nov. 1846, No. 98, minutes, C.O. 295/152; Harris to Grey, 16 Jan. 1847, No. 6, C.O. 295/154.
 4. Harris to Grey, 21 Dec. 1846, Private, minutes by Stephen 26 Jan. 1847 & Grey, 27 Jan. 1847, C.O. 295/152.

Stephen had little faith in the capacity of the non-Europeans to appreciate Western civilization.¹ But his devotion to concepts of justice and humanitarianism raised him at times from a level of racialism, not unusual in his day, to remarkable heights of sympathy and understanding. In his last year in the office he was sent a dispatch from the governor of Trinidad recounting a rumour that the state of Virginia intended to deport its free Negro population and suggesting that the British government should ask for them to be sent to Trinidad as immigrants. To Stephen this was utterly reprehensible. As free men the Negroes must choose where they wanted to go:

"It seems to me that the British government would be utterly disgraced by lending any aid whatever to the perpetuation of such tyranny One cannot help hoping that they the Negroes would resist such oppression by force if nothing else would avail". 2

For a man of peace these were brave words. Yet this was the spirit in which Stephen worked when considering those whom he felt needed the protection of the law, the slaves, the free coloured, the immigrants and the labourers. Over the years he had evolved something like what was later called a native policy or a policy of trusteeship for the weaker majority ruled by an alien minority. And this was no mean achievement.

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1. For his remarks on Asians see Harris to Gladstone, 18 July 1846, No. 30, Stephen's minute, 22 Aug. 1846, C.O. 295/151.
 2. Harris to Grey, 15 Jan. 1847, No. 5, Stephen's minute 20 Feb. 1847, C.O. 295/156.

CHAPTER IV

James Stephen and the Administration of Sierra Leone

Throughout his long official career Stephen enjoyed very close personal connections with the West African colony of Sierra Leone. The colony had been founded in 1787 under the aegis of Granville Sharp as a settlement of 'free persons of colour' and it was not until 1808 that it was taken over by the crown.¹ During this early period the settlement was supervised by the Sierra Leone Company, a charitable and commercial endeavour whose directors included many of the Clapham friends of the Stephen family.² Their influence over the colony's life prevailed even after it became a royal colony. It was initially through his acquaintance with the Macaulays, who were leading figures in the early administration and in the commercial life of Sierra Leone, that Stephen was privately kept informed of the colony's activities. After he joined the Colonial Office, this contact was maintained.³ Even as late as the 1840s, only a few years before his retirement, his interest in Sierra Leone was still involved with his private family concerns.⁴

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1. For the early history of the colony see Christopher Fyfe, A History of Sierra Leone (London, 1962), pp. 1-98.
 2. Stephen discusses them in his famous essay on 'The Clapham Sect' in James Stephen, Essays in Ecclesiastical Biography, pp. 523-584.
 3. A private letter from Henry William Macaulay to Stephen was treated as sound first-hand evidence in the office: see e.g. Stephen to Hay, 1 Nov. 1827, C.O. 267/85, Stephen.
 4. Stephen to J.C. Stephen, 21 Feb. 1842, Stephen Papers, Journal of letters to J.C.S., 1816-45.

Such personal contacts with a colony were unusual and undoubtedly influential. Sierra Leone had long suffered a bad reputation in Britain as a rather costly and corrupt imperial venture; but his Clapham upbringing¹ provided Stephen with a useful antidote to current opinion. There can be no doubt that he regarded Sierra Leone as an important experiment in humanitarianism. He made this clear in a sharp remark to an official colleague in 1834:

"I need not remind you that the settlement of Sierra Leone was established upon the express and avowed principle of advancing the cause of justice and humanity, by studiously respecting the rights of the native inhabitants, till then perpetually violated by all the nations of Europe and emphatically by this country".²

But if this suggests that his concern for Sierra Leone was especially deep, it is misleading. The causes which Stephen had championed elsewhere were largely those which he championed in Sierra Leone. Just as he used the question of slavery in Trinidad to bolster his authority and increase his departmental prestige, so he took up Sierra Leone cases involving slave trading and made them central issues of administration. But though the pattern was similar, there were, of course, important differences of subject and treatment.

Part of Stephen's early work on Sierra Leone administration was designed to protect the rights of the indigenous African peoples living in or around the settlement. In doing so he hoped to aid the cause for which,

1. Fyfe, Sierra Leone, p. 224.

2. Stephen to Hay, 23 Jan. 1834, C.O. 267/125.

in his opinion, the colony had been founded. In 1817 Stephen was required to examine local regulations governing the conduct of Kru settlers. The Krumen were West Africans from the Cape Palmas region who had migrated¹ to the colony to work as labourers. Stephen disliked the way in which the Sierra Leone government proposed to organize them. Not only were the regulations loose and inaccurate but the central proposal to divide the Krumen into tribes and exact tribal as well as individual punishments in cases of crime seemed objectionable. Although this proposal was supposedly based on Granville Sharp's plan of a medieval frankpledge system, it appeared to Stephen to require considerable modification to meet the circumstances of Sierra Leone. What disturbed him was not so much the departure from European models or even from English views of equity but the manifest injustice to individuals to be punished for the crimes of others and the failure to provide real authority to the tribal units to match the responsibility demanded of them. His objections were upheld and the laws were² vetoed.

The Krumen were immigrants in the colony but most of the contacts and collisions between settlers and indigenous peoples took place on the colony's frontiers or beyond its boundaries. Here Stephen initially took

1. Fyfe, Sierra Leone, p. 78.

2. Stephen's report, 11 July 1817, C.O. 323/40, f. 193. Ten years after this report Stephen was again successfully urging consideration for the rights of the Krumen by preventing their exclusion from the settlement: Stephen to Hay, 1 Nov. 1827, C.O. 267/85, Stephen.

a strong line in upholding the rights of the indigenous peoples. He insisted that the British government was pledged, as "an inviolable principle", to claim sovereignty only over areas where the chiefs had ceded their lands officially to Britain in return for payment. He declared invalid all claims made by virtue of prior discovery or through treaties between chiefs and private individuals. All attempts by the local government to extend¹ their jurisdiction beyond the colonial boundaries were rejected outright. This dogmatic stance was highly significant. By implication Stephen was insisting that, despite the existence of a formal British colony in West Africa, the indigenous coastal peoples still possessed all the attributes of sovereignty. British settlers could not push back the official frontier of the colony by occupying native lands. This view came under fire from many quarters in the following decades but, since it had a political as well as legal significance for him, Stephen upheld his opinion even after² he became Under-Secretary.

The first settlers in Sierra Leone were mainly free Negroes from the West Indies and North America (usually called the Maroons and the Nova Scotians). With his interest in Sierra Leone as a humanitarian experiment,

1. Stephen to Hay, 23 Jan. 1834, C.O. 267/125, Stephen; see also Stephen's report, 14 Feb. 1834, C.O. 323/50, f. 424.

2. It meant, of course, that British subjects were under local tribal laws when outside the colony: Stephen to Hay, 23 Jan. 1834, C.O. 267/125, Stephen. For a later instance see Jeremie to Russell, 4 Mar. 1841, No. 24, minutes, C.O. 267/163.

Stephen, not surprisingly, was also prone to favour them in their battles with the local government on such questions as land disputes or debates about the constitution. He was acutely conscious, as some of the governors were not, of how much the government had been forced to default on its early promises of extensive land grants for Sierra Leone settlers. When the governor proposed to investigate all land titles in 1828, Stephen suggested that the government was morally obliged to recognize even defective¹ titles. He also successfully opposed the governor's attempts to exact quit-rents on those land holders who could not prove their exemption to such taxes. In the counsel's view the onus on proving liability ought more justly to lie with the local government, especially when titles were defective.² He also battled, as in Trinidad, for the rights to security³ of the squatters on government lands.

His faith in the political sense of the settlers was well expressed when he was asked to comment on a legal case in 1833. A grand jury — composed of settlers had gone beyond their proper legal sphere to criticise the general conduct of the colony's affairs. Stephen did not object. Since Sierra Leone had no popular institution, he stated, it was unwise to resist, even though impossible to officially acknowledge, such an unorthodox

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1. Stephen's report, 8 Mar. 1828, C.O. 323/45, f. 422.
 2. Stephen's report, 28 May 1834, C.O. 323/50, f. 425.
 3. Stephen's report, 8 Mar. 1828, C.O. 323/45, f. 422.

method of expressing public feeling. He opposed the suggestion that the chief justice who had accepted the grand jury's remonstrance should be reprimanded.¹ His concern about the unrepresentative nature of the local government may also explain why Stephen invariably insisted upon the governor consulting his council on all legislative questions, since the council alone could give some colour of popular endorsement to the acts of the government.²

In these and other ways Stephen used his influence as counsel to protect those whom he considered were not being adequately protected by the local legislature. This was typical of his work on crown colony administration. But in Sierra Leone he also went as far as to question the whole basis of the local government's authority to make laws binding on the settlers. As a lawyer, Stephen was unhappy with the legal basis of the Sierra Leone constitution, perhaps because he saw the ambiguity in a settlement colony possessing the institutions of a conquered colony. As early as 1820, he expressed some doubts about the jurisdiction of the Sierra Leone legislature.³ It cannot be purely coincidental that, in the following year, the statute which abolished the African Company and vested its forts and other possessions on the Gold Coast in the Sierra Leone government was also intended to remedy defects in the original constitution.⁴ But

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1. Stephen to Hay, 14 Aug. 1833, C.O. 267/121, f. 157..
 2. Stephen's report, 4 May 1833, C.O. 323/49, ff. 236, 238.
 3. Stephen's report, 10 July 1820, C.O. 323/41, f. 96. It can be argued of course, though Stephen himself did not say this, that Sierra Leone became a conquered colony by the defeat of the Temne in 1801 and the peace treaty in 1807. See Fyfe, Sierra Leone, pp. 96-7.

Stephen took no part in the preparation or drafting of the 1821 act.

Two years later, he was drafting a bill, dealing with the power of the governor and council to legislate for Sierra Leone and its dependencies, which was avowedly designed to remove the objections to which the 1821 act had been adjudged liable. In view of the care which he put into this work and his later statements about it, it seems certain that Stephen himself shared these objections. But his amendments were purely technical and in no way sought to change the structure or nature of the government. He tried only to formalise the legislative powers of the governor in council.² In the event, the technicalities must have been thought unimportant since the amendments were dropped. If the direct result of Stephen's intervention was small, however, it may have helped to remind the secretaries of state to treat Sierra Leone as a colony without representative institutions which had to be checked occasionally rather than as a long-settled community which could merely be cajoled. It may also have forced the governor to consult his council. For his part Stephen reinforced this

4. (continued) Treasury to Goulburn, 27 Dec. 1820, C.O. 267/52, Treasury. This suggestion was also supported by governor McCarthy: McCarthy to Hill, 16 Nov. 1820, C.O. 267/52.

1. Treasury to Goulburn, 27 Dec. 1820, C.O. 267/52 says explicitly that the draft was prepared outside the Colonial Office.
2. Stephen's draft bill, n.d., C.O. 267/55, Stephen; see also Stephen to Wilmot, 20 Apr. 1823, C.O. 267/59, Stephen; and Doherty to Russell, 10 July 1840, No. 26, minute, C.O. 267/159.

policy of treating Sierra Leone as a crown colony by asserting the power¹?
 to amend the governor's commission and instructions.

As with Trinidad, slavery questions took up the bulk of Stephen's time and energy during his years as counsel. Sierra Leone had been founded, in his opinion, as an experimental settlement of free Negroes, to undo some of the wrongs which Europeans had done to Africans by the slave trade. After its foundation the colony became a major centre of British activity in combating the slave trade. The West African naval squadron which patrolled the coast in an attempt to intercept slave ships used Sierra Leone's port of Freetown as a base. A Mixed Commission Court, set up for the trial of slave trade cases, was established in the colony. Mixed Commission Courts derived their authority from international agreements which outlawed the slave trade for citizens of the signatory nations. Though most of these agreements were partially defective and were often evaded, they were of great importance for the colony. Slaves whose ships were captured in transit to the New World were brought to Sierra Leone and, when judged by the courts to have been transported illegally, were settled, at the expense of the British government, in villages in the colony. These so-called recaptives or Liberated Africans rapidly became the major element² in the colonial population.

1. Stephen to Horton, 14 July 1824, C.O. 267/63, Stephen.

2. Fyfe, Sierra Leone, pp. 99-206.

Stephen appreciated that Sierra Leone's contribution to the extermination of the slave trade was the major justification for the expense incurred there by the British Treasury. He was as tireless in the detection and investigation of slave trading cases in Sierra Leone as in protecting the slaves in Trinidad.¹ He supported every colonial attempt to attack European slave trading even to the point of condoning illegal proceedings.² He tried to demonstrate the inadequacies of the international agreements (particularly the Portuguese agreement which applied a ban only on slaves shipped north of the Equator).³ He even gave moral support to the governor who took the law into his own hands.⁴ To prevent the return to slave trading of captured slave vessels, he advocated breaking them up on condemnation of their cargoes - a policy which was officially sanctioned in 1835.⁵ In fact, whatever measures the local government undertook to destroy the slave trade could be sure of Stephen's encouragement and support.

Cases of slavery within the colony were few but the re-enslavement of

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1. E.g. Stephen to Hay, 5 May, 1826, C.O. 267/77, Stephen; Stephen to Hay, Sept. 1830, C.O. 267/106, Stephen.
 2. E.g. Stephen to Hay, 31 Oct. 1826, C.O. 267/77, Stephen (on dispatch no. 61).
 3. E.g. Stephen to Hay, 31 Oct. 1826, C.O. 267/77, Stephen (on dispatch no. 60).
 3. Stephen to Hay, 25 Nov. 1830, C.O. 267/106, Stephen; see also Fyfe, Sierra Leone, p. 197.
 4. Stephen's report, 27 July 1829, C.O. 323/46, f. 280.
 5. STEPHEN'S REPORT, 15 Nov. 1830, on JERICOTT TO WADDESBURN, 25 Sept. 1830, C.O. 267/106, STEPHEN.

recaptives who strayed to the frontier was not entirely unknown. To combat this danger, Stephen urged close attention to the supervision of the Liberated African Department which was responsible for maintaining and settling the released slaves. He felt very strongly on this subject and suggested in 1830 that the punishment for settlers who engaged in slave trading should be death.¹ The adoption of his suggestion in a few cases which followed a series of kidnappings in the early 1830s may well have helped to check the crime.²

By the time Stephen became permanent under-secretary the colony of Sierra Leone had become an imperial possession of some importance. Not only was it a centre of anti-slave trade activity but its population and resources were a major factor in British dealings with West Africa. The colony, still confined to the small area of the Sierra Leone peninsula, was becoming more densely populated. In the 1830s, as the capture of slaving vessels continued, the recaptive population grew to outnumber the original settlers of New World Negroes and Europeans and slowly began to integrate socially and economically with them. Recaptive villages with their individual allotments spread throughout the peninsula: and the busy commercial life of the colony attracted additional immigrants from the surrounding country, Kru, Mandinka and Bullom. So great was the pressure

1. Stephen to Hay, Sept. 1830, C.O. 267/106, Stephen.

2. Fyfe, Sierra Leone, pp. 182-4.

on land, that the enterprising colonists began to encroach on the territory beyond the colonial frontiers.¹ But economic statistics, if viewed in an imperial context, were still disappointing. West Africa took only about 0'8% of British exports and Sierra Leone's share of this total trade was trifling.²

Inevitably British attention centred on these two crucial facts - the growing population and the backward economy. Sierra Leone still received considerable attention, even if just intermittently, from humanitarians and missionaries intent upon the dissemination of Christianity or European civilisation. But statesmen generally could muster little enthusiasm for a colony so inadequately endowed. Some, impressed by the bad reputation which the colony had acquired as a white man's grave, even recommended the total abandonment of the colony though this was scarcely possible by 1836.³

Neither Stephen nor Glenelg, whose father had been a director of the Sierra Leone Company, paid much attention to such critics. They wished rather to improve the administration of the colony so that it fulfilled its imperial role. This was no simple task. In 1835 Lieutenant Colonel H.D. Campbell had been appointed governor of Sierra Leone. He was an

1. Cole to Russell, 11 Aug. 1849, C.O. 267/162, f. 143; Fyfe, Sierra Leone, pp. 209-210.

2. N.A. Cox-George, Finance and Development in West Africa: The Sierra Leone Experience (London, 1961), p. 142; P.D. Curtin, The Image of Africa (Madison, Wisconsin, 1964), pp. 277-95.

3. Curtin, ibid., pp. 161, 196, 340; see also Hay's memorandum, n.d. 1830, Murray Papers, N.L.S., vol. 171, 43.3.6, f. 66.

energetic but irresponsible man, temperamentally unsuited to dealing with a small, quarrelsome colonial establishment. To make matters worse he had also a private grudge against Glenelg. In his short period in office, Campbell, with his insane suspiciousness, reduced the local administration to chaos. His dispatches to the Colonial Office consisted largely of wild, vindictive charges against his officials or against anyone who in the least offended him.

Stephen was clearly repelled by Campbell's lack of self-control. Initially he tried to preach conciliation, urging the governor to put the interests of his colony above any personal concerns. But, before long, Campbell became convinced that his enemies were not confined to the local establishment. A torrent of dispatches from Sierra Leone hinted at the complicity of the Colonial Office in his officials' imputed insubordination. Though it is difficult to prove conclusively, Stephen probably decided that there was no other solution for the government but to recall Campbell and then successfully attempted to convert Glenelg to his point of view.

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1. His dispatches are found in C.O. 267/132 to 139. See also Fyfe, Sierra Leone, pp. 198-206.
 2. E.g. Campbell to Glenelg, 3 Nov. 1836, Private, minutes, C.O. 267/134.
 3. E.g. Campbell to Glenelg, 6 May 1836, No. 67, minute, C.O. 267/138.
 4. E.g. Campbell to Glenelg, 23 May 1836, Private, C.O. 267/132.
 5. Stephen's minute of 20 Jan. 1837 on Campbell to Glenelg, 2 Nov. 1836, No. 174, C.O. 267/134 strongly suggests Stephen's initiative and the fact that the minutes (which are in this period almost always by Stephen) were covered up subsequently again suggests this conclusion. *see p 238*

If Campbell's governorship had been limited to vituperative attacks on his superiors and subordinates, the damage which he did could easily have been repaired. But he was also a man of action. He saw himself as a peacemaker in the wars between the Temne and Loko peoples which had for years disrupted the stability of the lands beyond the colony's frontier. In 1836, acting entirely on his own responsibility, he mounted an expedition to the interior and induced both sides in the war to sign an agreement at a place called Magbele. At the same time he secured from the chiefs certain trading rights for British subjects in their lands in return for the payment of subsidies or 'presents'.¹

Since the negotiation of treaties to end native wars and open trade relations was a recognised part of British West African policy,² Stephen, when faced with the Magbele agreement, recommended that Campbell receive the customary congratulations of the secretary of state. But, more critical than his predecessor who had allowed a very similar treaty to pass without objection five years earlier,³ he insisted that three of the main articles signed at Magbele were objectionable and must be revoked. Curiously, he does not seem to have anticipated any great difficulty in rescinding three clauses in a treaty already formally agreed to and signed.

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1. Campbell to Glenelg, 2 May 1836, No. 63, C.O. 267/132.
 2. Fyfe, Sierra Leone, pp. 185-6.
 3. For details, Fyfe, ibid., pp. 192-3.

Perhaps the governor's assurance that the chiefs were extremely willing¹ to sign further agreements misled him. Even if such criticisms were practicable, however, two of Stephen's three points seem rather dubious.

He firstly objected to a clause which specified that the Sierra Leone governor should be allowed to extradite colonial debtors from Temne lands since he felt that this was against English legal practice and endangered individual liberty by giving too much power to the executive. This criticism, though legally correct, showed no awareness of the importance of debtor laws in the commercial transactions of the West African coast where 'middle-men' were widely employed.² Secondly, Stephen wished to veto the provision that Temne runaway domestic servants should be returned to their owners. He based his conclusion on the fact that domestic servitude as practised by the Temne constituted slavery as defined by British laws; however mild slavery might be in its operation, slaves in British territories automatically became free. Since the extradition was therefore a form of enslavement it was as illegal as it was impolitic. Still, had he been more practical and less legalistic, Stephen might have given some consideration to questions of compensation to the Temne.

Stephen's third objection was more defensible. He took exception to a clause which stated that the permission of the Sierra Leone governor was

1. Campbell to Glenelg, 28 Dec. 1836, C.O. 267/134, No. 190.

2. See e.g. Reid, Hutton and Nicholls to Stephen, 16 Mar. 1836, C.O. 267/136, f. 130.

to be required before the chiefs could execute the severest degrees of country punishments on British subjects in their territories who broke their laws. This clause involved for Stephen a question of principle. He objected not to the chiefs exercising jurisdiction over British immigrants -- on the contrary this, he thought, was 'just and humane' -- but to the British governor exercising, even in this moderate way, a right to interfere in native justice and therefore a kind of extra-territorial jurisdiction. He seems to have feared that unless the doctrine was repudiated decisively it would provide a pretext for colonial intervention and, ultimately, forced territorial expansion. Native sovereign rights would be undermined¹ by colonial aggressors.

Faced with these objections in a dispatch from the Colonial Office, Campbell did not bother to argue. Instead he mounted a second unauthorised expedition up-country. Unfortunately, his small force found itself outnumbered militarily in a brush with the Temne at Magbele and he was forced to conclude a second more expensive agreement with them. In the second treaty he conceded all three of Stephen's points from the earlier agreement which he had intended to revoke. Even this did not prevent the Temne and Loko from resuming their war.² Inevitably, when Stephen became aware of

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1. Campbell to Glenelg, 2 May 1836, No. 63, draft reply 26 June 1836, C.O. 267/132.
 2. Cole to Glenelg, 14 June 1837, C.O. 267/140; Doherty to Russell, 22 Apr. 1840, No. 17, C.O. 267/159.

the provisions of the second treaty, he recommended that all the non-commercial clauses in both treaties should be unilaterally repudiated by the British government.¹

This unfortunate beginning to his administrative work on Sierra Leone haunted Stephen for years. Campbell, on his return to Britain, was asked to explain his behaviour and tried to counter the charges against him by attempting to prove that he had been wrongfully dismissed. The unpopular permanent under-secretary was only too obvious a candidate for his invective. To defend himself, Stephen seems to have taken the unprecedented step of erasing all his minutes on Campbell's dispatches for 1836, obviously to prevent Campbell from discovering his part in the decision to recall the governor.³ But this peculiar performance did not prevent Campbell from continuing his attacks.⁴

Campbell's governorship had demonstrated the vital importance to colonial administration of good relations between the governor and the Colonial Office. Fortunately for Sierra Leone, Campbell's successor,

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1. Campbell to Glenelg, 2 Mar. 1838, No. 26, minutes, C.O. 267/149. This was not finally settled however until 1840; Doherty to Russell, 22 Apr. 1840, No. 17, minutes, C.O. 267/159.
 2. E.g. Campbell to Glenelg, 14 Nov. 1837, minutes, C.O. 267/140.
 3. This applies to vols. C.O. 267/132, 133, 134. For proof of Campbell's intention to make the minutes on the dispatches public, see Campbell to Russell, 30 June 1840, C.O. 267/162.
 4. Stephen to Russell, 26 June 1840, C.O. 267/162, f. 75; Campbell to Russell, correspondence 1840, C.O. 267/162, ff. 65 et seq.; Campbell to Lyttleton, 3 July 1846, minutes, C.O. 267/196.

Colonel Richard Doherty, stood in marked contrast to his predecessor in temperament; he was patient, conciliatory and methodical, and he enjoyed the entire confidence of the permanent under-secretary during his years in Sierra Leone. Stephen, in fact, may have tried to learn something from the bitter experience of Campbell's recall. For example, before Campbell's recall Stephen had ^{proposed} insisted upon publishing and investigating the many charges against the Sierra Leone officials of complicity in slave trading.¹ But when Doherty appealed for the withdrawal of all these investigations so as not to excite suspicions, Stephen agreed to his request.²

With a reliable governor in office it was possible for Stephen to reconsider Sierra Leone's problems. He had determined when counsel to defend the sovereign rights of the native peoples and to protect, if he could, the interests of the colonists where the local government failed to do so. As under-secretary, he continued this policy, but he also adopted a more positive role by attempting to press the government into aiding the group whom he felt most needed assistance - the recaptives or Liberated Africans. During Doherty's governorship the recaptives, who had already taken up street trading or huckstering, began to compete with the older settler and European communities for a share in the commercial life of the colony. Their opportunity came with the international agreements of the

1. E.g. Campbell to Glenelg, 9 Mar. 1837, No. 206B, C.O. 267/140.

2. Doherty to Glenelg, 6 Nov. 1837, No. 30, minute, C.O. 267/141.

1830s on the slave trade which made goods as well as slaves when seized on captured slave ships liable to confiscation. The goods, sold by auction in the colony, were bought by the recaptives for retail. By their policies of buying co-operatively and selling with low profit margins,¹ they enjoyed spectacular successes in petty trading during the later 1830s.

Stephen, like Doherty, wished to encourage this commercial enterprise. When attempts were made by the European and Settler merchants to frustrate the commercial activities of the recaptives, Stephen insisted upon helping them.² Both Stephen and Doherty also wanted to encourage recaptive industry and would have liked to have offered the contracts for making clothes for the Sierra Leone militia to the colonists. But the Board of Ordnance refused to allow a market for English industry to be lost.³ Foiled in this direction, Stephen then tried to open army recruitment to the recaptives on terms of complete equality with other settlers.⁴

Stephen also looked sympathetically on the recaptives' attempts to acquire land but he was not always able to help them. To the legal

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1. A.T. Porter, Creoledom (London, 1963), pp. 19-50; Fyfe, Sierra Leone, p. 204.
 2. Doherty to Glenelg, 23 Sept. 1838, & 24 Sept. 1838, Nos. 65 & 66, minutes and drafts, C.O. 267/148; Doherty to Russell, 3 Oct. 1840, No. 48, minutes, C.O. 267/160
 3. Doherty to Glenelg, 8 Mar. 1838, No. 18, minutes, C.O. 267/146; Ordnance to Colonial Office, 9 July 1838, minutes, C.O. 267/150.
 4. Somerset to Stephen, 28 Feb. 1837, C.O. 267/142, C. in C.

complications of British landownership, the British government tried in the later thirties to add the new set of imperial regulations governing land sales in accordance with the plan evolved for Australia.¹ Restrictions on land ownership, even when not strictly enforced, had their effects. Rather than stay and compete many recaptives resorted to a solution traditional in the British Empire - settlement on the frontier - in this case a fertile area called Quia to the east of the colony. In doing so they imposed a new problem for Stephen by re-raising the disputed issues of expansionism and the conflict of interests between settlers and indigenous² people.

Colonial expansionism threatened all the canons of early nineteenth century imperial government, especially the reluctance to acquire formally territorial possessions and the constant insistence on governmental retrenchment. Yet it proved impossible to control. By 1838 there were said to be three thousand recaptives in Quia. As an added complication most Quia immigrants were Mende from the eastern border of the Temne lands, and, by settling on the western border, threatened the Temne with encirclement. Doherty, with Stephen's approval, tried at first to dissociate the Quia settlers from the colony and to abandon them to native rule. But when

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1. Doherty to Glenelg, 4 May 1838, No. 30, C.O. 267/146; Doherty to Glenelg, 10 Apr. 1839, No. 27, C.O. 267/153; Glenelg to Doherty, 17 Aug. 1838, C.O. 268/38, p. 106.
 2. Fyfe, Sierra Leone, pp. 209-210. Quia is now commonly known as Koya.

the Temne ruthlessly attacked and defeated them, Doherty, fearing the whole colony threatened, recommended buying peace by purchasing the whole of Quia between the Rivers Kates (now Ribbi) and Rokelle. This purchase, he claimed, would have the additional advantages of containing recaptive expansion, pacifying the frontier, providing natural boundaries, opening a permanent trade route to the interior and adding a piece of fertile territory¹ to the colony.

Stephen recognized that there were good reasons for annexing Quia though he insisted that a full survey should be made first to examine the extent of the expenditure involved. But though he favoured an inquiry he was not without doubts about the wisdom of unlimited expansion. He explained his objections in words which have since been taken - perhaps wrongly - as containing his creed:

"I cannot but think that even if our national resources were far more ample than they at present are it would be very bad policy to employ in Africa that part of them which is available for colonization. In North America and in Australia we have vacant continents to occupy and every shilling well expended there may be made to yield a large and secure return. But in Africa we cannot colonize at all without coming into contact with numerous warlike tribes, and involving ourselves in their disputes, wars and relations with each other. If we could obtain the dominion of the whole of that continent it would be but a worthless possession....." 2

Though this extract is normally all that historians quote, these words are merely part of a very long, complex minute and are misleading when

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1. Doherty to Russell, 29 July 1840, No. 34, C.O. 267/159.
 2. Stephen's minute 21 Dec. 1840 on Doherty to Russell, 29 July 1840, No. 34, C.O. 267/159; see also R. Robinson, J. Gallagher & A. Denny, Africa and the Victorians (London, 1961), p. 16.

considered out of context. In the sentence following, for example, Stephen excepts dominion over all the sea coasts of Africa from his charge of worthlessness - a rather sizeable exception! Next, he points a comparison with France whose expansion in the Algerian interior though only a limited success had been expensive and had detracted from her other imperial ventures. Two sentences further and the practical administrator in Stephen had left the over-worked polemicist in him far behind. Sierra Leone was a settlement, its expansionist tendencies, though deplorable perhaps, had to be accepted and the inclination of the flag to follow trade¹ taken for granted:

"Fix that limit [of the boundary of settlement] where you will, there will still be growing up among the colonists new temptations to wander beyond it, and on the part of the government there will still be felt motives just like those now at work for overtaking the fugitives by acquiring the sovereignty of the country into which they have escaped".

Though expansion was inevitable, however, it was not uncontrollable. The decision to extend the area of the colony, Stephen believed, should not be based on the need to save emigrants whose aggression alarmed the native chiefs, but on 'the natural and accidental advantages' of the territory concerned, weighed against the cost to buy and maintain it:

"I believe it to be quite true that the colony at present is too contracted in its limits, and that the boundaries are inconvenient and ill-defined. It might perhaps be very right to obtain more land and a better line of demarcation.

1. Stephen's minute, 21 Dec. 1840 on Doherty to Russell, 29 July 1840, No. 34, C.O. 267/159. Stephen's views on the subject of expansionism in South Africa have recently been discussed by John Galbraith in Reluctant Empire (Berkeley and Los Angeles, 1963), p. 6.

My objection would be to acting on the principle of arresting the evils of emigration by acquiring the sovereignty of whatever lands the emigrants may occupy".

When the question came up for decision in the Colonial Office, however, Glenelg had been replaced by Russell and Grey by Vernon Smith and it was Vernon Smith and, at a later date, Stanley - and not Stephen¹ - who set their faces determinedly against all formal expansion.

Stephen had rather more success getting his views accepted on such subjects as social welfare legislation and the recruitment of local officials. During Doherty's governorship, he made a most important contribution to the cultural and spiritual development of the recaptives by committing the British government to provide directly for the education of recaptive children rather than subsidising the missionary societies to allow them to do so. When H.W. Macaulay, a chairman of the Mixed Commission, wrote privately to Stephen in 1836 to urge him to aid the cause of education in the colony, Stephen ordered his letter to be registered and circulated in the Colonial Office. This at once forestalled criticisms by making his support overt and also gave Macaulay's scheme political consideration since the letter passed, in the normal routine of business, to the secretary of state. There was some opposition to Macaulay's idea: the chief clerk, for example, thought that though the scheme sounded admirable the Treasury would refuse to pay for it. But Stephen insisted

1. See minute by Vernon Smith, 22 Dec. 1840, on Doherty to Russell, 29 July 1840, C.O. 267/159; & Stanley's minute 31 Mar. 1843 on Barrow to Stephen, 28 Mar. 1843, C.O. 267/182, Admiralty.

that the Treasury should still be asked and that the case should be presented to them as forcefully as possible by making preliminary enquiries to prove its desirability. As a result of these tactics the Treasury¹ was convinced and gave its support.

Sir George Grey, the parliamentary under-secretary, was also unhappy with the proposal. He felt that the missionary societies who had controlled education in the colony should not have to face competition from the state. But Stephen knew that the missionaries had overtaxed their resources and could find neither the men nor the money to expand their service.² In 1838, therefore, a new establishment for schools was written into Doherty's Instructions so that the education of children in the Liberated African Department became a government responsibility.³ It was also at Stephen's suggestion that teachers and preachers for the recaptives were sought in the West Indies since he felt that Negroes would fare better in Sierra Leone's climate than British missionaries and would provide a model in civilized living for the members of their own race.⁴

During Doherty's governorship three outbreaks of yellow fever and one

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1. Macaulay to Stephen, 25 Nov. 1836, minutes, C.O. 267/137.
 2. Smith's memorandum and Stephen's minute on it, 14 Dec. 1836, after Macaulay to Stephen, 25 Nov. 1836, C.O. 267/137.
 3. Instructions to Doherty, 2 May 1837, C.O. 268/33, pp. 331-57.
 4. Coates to Glenelg, 28 Dec. 1836, minute, C.O. 267/135, C.M.S.

violent hurricane caused much loss of life and dealt a serious blow at attempts to maintain a European establishment; the Europeans usually succumbed first.¹ Even major posts, like Queen's Advocate or Chief Justice, had to be filled by deputies as no suitable British candidates could be found to risk their lives for the meagre salary of a Sierra Leone official.² Stephen was convinced that the westernized Negroes of the West Indian empire should be brought in to lead their fellows in West Africa. He would have preferred recruiting Sierra Leone officials exclusively from West Indians of African descent.³ Such a wilful alienation of patronage, however, was more than Glenelg was prepared to stand. Though they agreed on a compromise to appoint West Indians with British patrons, it was only during Russell's secretaryship that Stephen's plan was elevated into a deliberate government policy.⁴ But even Glenelg's small concession did result in the appointment, amongst others, of Robert Dougan and John Carr, two West Indians of some ability, both of whom were later to serve for a time as acting-governor.⁵

1. Fyfe, Sierra Leone, p. 150.

2. Doherty to Glenelg, 12 Dec. 1837, No. 42 and 18 Dec. 1837, No. 44, C.O. 267/141.

3. E.g. Doherty to Glenelg, 18 Dec. 1837, No. 44, minute, C.O. 267/141.

4. Instructions to Madden, 26 Nov. 1840, and draft to Treasury, 27 Aug. 1841, C.O. 267/170, ff. 2, 416.

5. Fyfe, Sierra Leone, pp. 211, 220-1, 261, 276-8.

Stephen's paternalistic interest in the welfare of the recaptives continued to affect policy even after Normanby and then Russell succeeded Glenelg. He noted especially that care was required when the recaptives' ¹ 'propensity to wander' carried them outside the boundaries of the colony. Not all recaptives who felt cramped in the colony chose the rigours of the frontier. Many preferred to explore the lands to the south or the east and many, especially among the recently released slaves, returned to their ² original homes in the interior. The most ambitious recaptive undertaking was a plan for several hundred settlers together with a missionary to colonize a district round Badagry, in the Bight of Benin, an area notorious for slave-trading. They hoped to establish there an asylum of Christian enlightenment and western civilization which eventually by good example ³ would oust the slave trade.

Despite the fact that it involved an extension of British influence in West Africa, Stephen had no objections on principle to the Badagry settlement. But he considered it an impracticable scheme. The lack of finance augured ill for a colony; the dangers of recapture into slavery were too great to be ignored; and such a settlement seemed unlikely to succeed in its object of replacing slavery by legitimate commerce as its

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1. Campbell to Glenelg, 11 July 1836, No. 104, minute, C.O. 267/132.
 2. Fyfe, Sierra Leone, pp. 212-3, 227-8.
 3. Doherty to Russell, 30 Nov. 1839, No. 75, C.O. 267/154.

proposers hoped. He therefore advised against giving governmental assistance though he felt that the governor should be left to decide whether or not to allow them to go on their own.¹ Though Russell agreed with him, Stephen was mistaken in his predictions. The recaptives went unassisted and secured far more solid results in the dissemination of European ideas and in stopping slave trading than the government-supported² and vastly more expensive expedition to the Niger.

A second proposal for dealing with the peripatetic recaptive was to transport him to the West Indies. Stephen, as already noted, agreed to the plan but he was never very hopeful about the prospects. He felt that it was necessary to apply some form of coercion, such as passport controls, to divert Sierra Leone emigration to the West Indies and away from other West African settlements such as at Badagry. But Russell was against this and preferred instead to send out to the West Indies recaptive delegated 'observers' from Sierra Leone villages to gather the news of the attractions³ of the New World.⁴ This plan was largely a failure.

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1. Doherty to Russell, 20 Mar. 1840, No. 9, minutes, C.O. 267/159; Lushington to Russell, 20 Apr. 1840, C.O. 267/162, f. 259.
 2. Stephen had thought of employing them as Buxton's auxiliaries: Doherty to Russell, 30 Nov. 1839, No. 15, minute, C.O. 267/154. For the Niger Expedition see John Gallagher, 'Fowell Buxton and the New African Policy, 1838-42', Cambridge Historical Journal, X, i, 1950, pp. 36-58.
 3. Doherty to Russell, 20 Mar. 1840, No. 9, minutes, C.O. 267/159; see also Torrens & Villiers to Stephen, 1 Jan. 1841, minutes, C.O. 267/168, Land Board.
 4. Fyfe, Sierra Leone, pp. 224-5.

Stephen and Russell were more in agreement and probably more successful in dealing with the recaptives who remained in the colony than with the emigrants. At Governor Doherty's suggestion, they decided to offer subsidies for agricultural produce and to set up a model farm to instruct and encourage¹ the colonists in the ways of commercial agricultural production. But this was an exceptional effort in the later part of Russell's secretaryship. By stages Russell had begun to move away from accepting the suggestions of his under-secretary or of the Sierra Leone governor and to consider instead implementing a West African policy influenced from a quite different direction.

Russell's short administration is of great importance in the history of Sierra Leone. Because of the instability of the Melbourne government, colonial policy had become extremely susceptible to parliamentary pressures. On West African questions one group led by Sir Thomas Fowell Buxton became particularly influential. Buxton's supporters consisted of a disparate collection of humanitarian and Christian groups. Their strength lay in the fact that though their leader was not himself a member of parliament he possessed in the House of Commons a body of committed voters whose defection from the government could have brought it down. Buxton's views also appealed to the government in that they managed to embrace both humanitarianism and retrenchment. He claimed that the successful adoption of his plans would lead to the end of slave trading from West Africa and

1. Jeremie to Russell, 6 Jan. 1841, No. 7, minutes, C.O. 267/163.

so would cut down the government's expenditure on suppressing the trade.

Buxton suggested two basic plans. The first, which concerned Sierra Leone only indirectly, was the establishment of a colony in the Niger region which, by serving as a successful experiment in legitimate commerce, would eliminate the slave trade. The second was to negotiate treaties with African chiefs in which the chiefs would agree to abolish the slave trade in return for a promise of legitimate trade with the British. The latter proposal was not new: Sierra Leone governors and patrolling naval commissioners had already concluded several such agreements and Stephen was on record as favouring the idea. But the treaties were now to be made more precise and given the full support of the government.²

Russell himself eventually undertook the task of drawing up a model slave treaty, utilising the services of two other government departments and experienced clerks in doing so.³ The model which finally emerged from this cumbersome procedure contained a very large number of stipulations including several favouring the assertion of extra-territorial jurisdiction by the Sierra Leone governor.⁴ Stephen undoubtedly would have questioned

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1. J. Gallagher, C.H.J., X, i, 1950, pp. 36-58; P. Curtin, Image of Africa, pp. 289-317.
 2. For earlier examples see the appendix to C.O. 267/148; Doherty to Normanby, 10 Oct. 1839, No. 60, minutes, drafts & appendices, C.O. 267/154.
 3. Doherty to Normanby, 10 Oct. 1839, No. 60, minutes & drafts, C.O. 267/154.
 4. J. Gallagher, C.H.J., X, i, 1950, pp. 46-7, 51-2.

these if he had been consulted but, after the preliminary stages, he was not. It is possible that he was deliberately ignored because of the current strength of the colonial reform¹ movement in Britain. Nonetheless Stephen found an opportunity to air his views.

Governor Doherty, worried by continued frontier lawlessness and dubious of Temne law, arranged with the Temne chiefs for British subjects who committed crimes in their lands to be handed over to the British authorities for trial.² This act was open to precisely the same objection which Stephen had earlier raised in condemning the Magbele agreements since it arrogated to the local government the power of extra-territorial jurisdiction. Stephen was obviously in a dilemma. He could not bring himself to support Doherty, but experience had shown that something would have to be done about clashes between settlers and indigenous peoples on the frontier. There seemed to be only two possible solutions. Russell would either have to secure an act of parliament to provide the Sierra Leone governor with the authority to exercise extra-territorial jurisdiction (there were precedents for this in Canada and elsewhere) or he must order Doherty to revoke the agreement and proclaim that settlers residing outside the colony were subject to the laws of the lands they inhabited. Both solutions seemed 'in some degree' objectionable, the former involving the intervention of

1. Curtin, Image of Africa, pp. 291-2, 340.

2. Doherty to Russell, 29 Nov. 1839, No. 74, C.O. 267/154.

parliament, the latter embarrassing the chiefs and the governor. Of the two Stephen, because of his concern for native sovereignty, leaned¹ towards the latter.

Russell initially favoured an act of parliament; but it was ultimately decided to submit the whole question to the one-man commission of investigation which had been appointed to inquire into the British West African possessions.² This commission, which was undertaken by Dr. Richard Robert Madden, was also a product of the Buxton pressure group. Madden was a controversial choice for an investigation which was to deal mainly with slave trading allegations. During previous government service in the West Indies, his animus against merchants and planters had been undisguised³ but this, of course, was no criticism in the eyes of Buxton's group. So far as can be established Stephen too had no objections to the appointment: but he apparently felt that Madden should be required to deal not with slave questions alone but with the general administration of the British West African possessions.⁴

In the interval between Madden's appointment in the summer of 1840

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1. Doherty to Russell, 2 Dec. 1839, No. 76, minutes, C.O. 267/154.
 2. Doherty to Russell, 27 July 1840, No. 33, minutes, C.O. 267/159.
 3. G.E. Metcalfe, Maclean of the Gold Coast (London, 1962), pp. 245-75; Curtin, Image of Africa, p. 305; Gallagher, C.H.J., X, i, 1950, p. 53.
 4. Cole to Russell, 11 Aug. 1840, minutes, C.O. 267/162, f. 143.

and his departure for West Africa in the following year, Doherty, the Sierra Leone governor, was transferred to the West Indies and John Jeremie was appointed to replace him. Jeremie, like Madden, held notoriously extremist views on slavery questions and doubtless his appointment also owed something to Buxton's influence.¹ The choice may not have entirely pleased Stephen. In February 1840, just seven months before Jeremie's appointment, Stephen emphatically dismissed the idea of preferring him to Doherty. Doherty, he wrote, was "a man who has every advantage over Mr. Jeremie both in youth and vigour".² But as long as Buxton's influence was paramount with the government, Stephen's voice went unheard.

Curiously, once Jeremie's appointment was known, Stephen, perhaps playing the perfect subordinate for Russell, chose to co-operate fully with him.³ This was certainly a miscalculation, and it is difficult to decide why Stephen so completely changed his mind. It is possible that he decided to adopt wholeheartedly the government's new approach. He believed that on such subjects as the Niger expedition "half measures are

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1. Metcalfe, Maclean, p. 260; Gallagher, C.H.J., X, i, 1950, p. 52.
 2. Mackenzie to Normanby, 5 June 1839, Separate, Stephen's memorandum 17 Feb. 1840, C.O. 54/171. See also Mackenzie to Russell, 16 Dec. 1839, Separate, minute, C.O. 54/173.
 3. See e.g. Doherty to Russell, 10 July 1840, No. 26, minute, C.O. 267/159.

worse than none" and "if we venture at all it is wise to venture bravely¹ and to throw for a large stake". This would explain why, when the policy collapsed in 1841, Stephen simply abandoned it.² There is some evidence for this. Jeremie, for example, following one of Buxton's suggestions, asked to be allowed to act directly as governor in each of the British West African territories and Stephen supported him even though he had earlier repudiated the idea as impracticable.³ Before this could be implemented, however, he discovered constitutional objections which resulted in a postponement. The scheme was in any case unsound and Jeremie was far too inexperienced in West African affairs to be safely trusted with such wide-ranging powers.⁴ Another possibility is that Stephen was acting under strict instructions from his political masters⁵ to aid Jeremie and Madden.

Whatever the explanation, both Jeremie's and Madden's appointments had

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1. Gallagher, C.H.J., X, i, 1950, p. 46.
 2. Cf. Stephen's minutes on Jeremie to Russell, 4 Mar. 1841, No. 24, C.O. 267/163, and Carr to Russell, 20 July 1841, No. 17, C.O. 267/164.
 3. Doherty to Glenelg, 7 June 1838, No. 33, C.O. 267/147; Jeremie to Stephen, 2 Oct. 1840, minutes, C.O. 267/160; Jeremie to Stephen, 14 Nov. 1840, minutes, C.O. 267/160.
 4. Law Officers to Russell, 26 Mar. 1841, minutes, C.O. 267/168.
 5. Stephen suggested this to Stanley: Carr to Stanley, 16 Aug. 1841, No. 32, C.O. 267/165. But it seems dubious since Jeremie corresponded privately with Stephen: e.g. Jeremie to Stephen, 10 Jan. 1841, private, C.O. 267/163.

unfortunate repercussions. Jeremie succumbed to the climate in four months, leaving behind him in draft a legion of chimerical schemes. Stephen had the embarrassing duty of repudiating them as government policies¹ despite the support he had given them earlier. Jeremie's one lasting achievement was a treaty with the Temne based on Russell's model treaty instructions and designed to replace Campbell's Magbele conventions.

Jeremie's treaty illustrates the length to which Stephen was prepared to go with the government's new policy. He recommended for acceptance Jeremie's plans for a naval and military blockade of the rivers around the colony where slave trade activity was allegedly rife. He endorsed the setting up of full trade and diplomatic relations with the Temne including a postal service, a customs station and a permanent residency. He agreed to the proposal to extend the colonial frontier to include Quia by negotiation with the chiefs. Most strikingly of all, he relinquished his position of outright opposition to every exercise of extra-territorial jurisdiction. He still protested about the illegality[?] of extending British jurisdiction to British subjects outside the colony but, having learned the lessons of Magbele, he insisted only that this should be rectified by passing an act of parliament. In conclusion he recommended the immediate² acceptance of the treaty in the hope of stabilising the frontier.

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1. E.g. Ferguson to Russell, 2 Oct. 1841, No. 8, C.O. 267/166 compared with Jeremie to Russell, 6 Jan. 1841, No. 7, minutes, C.O. 267/163.
 2. Jeremie to Russell, 4 Mar. 1841, No. 24, minutes, C.O. 267/163.

Unfortunately Treasury wranglings over the payment of 'presents' held up¹ ratification for years.

Madden's investigations were equally unfortunate. Stephen and Russell disagreed over the scope of the Madden commission but they agreed on the basic premises. Madden was to investigate a series of allegations² relating to British complicity in West African slave trading. In fact, on all of the main points to be considered the Colonial Office had already³ made up its mind long before Madden was even appointed. Doubtless influenced by his instructions and briefing, Madden obligingly proceeded to prove that the Colonial Office was basically right in its suspicions. In fact his report had limited value as an independent inquiry.

Madden survived his residence in Sierra Leone by making his stay brief. Instead of the eighteen months' tour which Stephen had envisaged, Madden spent only four and devoted a mere fortnight to examining conditions⁴ in Sierra Leone. His analyses, of course, were full of errors and most of the sound recommendations originated with the Colonial Office. But

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- 1.. Treasury to Stephen, 15 Apr. 1842, C.O. 267/178, Treasury.
 2. Compare their suggestions for the instructions to Madden: drafts by Russell and Stephen, 11 Nov. 1840, C.O. 267/170, ff. 17 & 22.
 3. On Sierra Leone, for example, the subjects were the mortality rate for officials, frontier expansion and West Indian immigration from West Africa; Instructions, 26 Nov. 1840, C.O. 267/170, f. 2.
 4. Metcalfe, Maclean, pp. 260-2.

initially Stephen was not displeased. At least on the key points which he had been asked to examine Madden produced conclusive evidence to substantiate what Stephen had been advocating for some time, particularly on the weaknesses of the anti-slave trade campaign.¹ Apart from a rapid perusal of these points, it seems unlikely that Stephen or his superiors even looked at the report. Instead they requested that Madden make a digest of his compendious analyses.²

Out of the many points which Madden recommended for attention Stephen then selected those which interested him and abandoned the rest.³ With regard to Sierra Leone (which, of course, occupied only a fraction of the total report) Stephen chose two main points from a long general report which he was later to condemn as wildly inaccurate in detail.⁴ He firstly endorsed Madden's proposal to abolish the inefficient Liberated African Department which supervised the newly landed recaptives though he insisted on retaining the educational facilities for recaptive children. Secondly

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1. Madden's report, first part, 31 July 1841 & Stephen's memo, 4 Aug. 1841, C.O. 267/171.
 2. Madden's 'Recapitulations', 19 Aug. 1841, C.O. 267/170, f. 141.
 3. This may mean that Stephen did see the weaknesses straight away since in demolishing the report subsequently ex-governor Doherty singled out almost the same points as Stephen for praise; Stephen to Hope, 30 Oct. 1841, C.O. 267/165, appendix; Doherty to Hope, 27 Oct. 1841, C.O. 267/166; Cf. Gallagher, C.H.J., X, i, 1950, p. 53, fn. 120.
 4. Stephen to Hope, 30 Oct. 1841, on slave treaties, C.O. 267/165, appendix.

he praised the idea, which he himself had first suggested, that the whole public service in Sierra Leone should be composed entirely of Negroes or people of Negro descent.¹ These recommendations were included in a series of drafts which he pressed on Russell only a few days before the secretary of state left office.²

Stephen also asked Russell to leave a memorandum for his successor urging him to implement these two recommendations and -- here deviating very far from normal official propriety -- announced that he favoured one William Ferguson, a coloured army doctor who had been acting governor, to replace Jeremie as governor.³ This was obviously an attempt to force Russell into committing the incoming secretary, Stanley, to a policy which he might find difficult to reverse. But it failed. Russell insisted that the choice of 'men and measures' should be left to his successor.⁴

It is difficult to say exactly what Stephen thought of what Professor Gallagher has called in a recent article the 'new African policy' of expansionism and intervention in West Africa during the period 1838-1842.⁵

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1. For Stephen's earlier support for these measures, see e.g. Doherty to Glenelg, 18 Dec. 1837, No. 44, minute, C.O. 267/141; Doherty to Normanby, 2 Sept. 1839, No. 52, minute, C.O. 267/153; and Doherty to Glenelg, 23 Sept. 1838, No. 65, minute and draft, C.O. 267/148.
 2. The report on Sierra Leone probably owes something to a memorandum by Cole which Stephen forwarded to Madden; Cole to Russell, 11 Aug. 1841, C.O. 267/162, f. 143; see also Stephen's drafts on Sierra Leone, 27 Aug. 1841, C.O. 267/170, f. 412. The full report is in C.O. 267/171 and 172.
 3. Stephen to Vernon Smith, 26 Aug. 1841, C.O. 267/170, f. 303.
 4. Russell's minute 28 Aug. 1841, on Stephen's draft 26 Aug. 1841, C.O. 267/170, f. 412.
 5. Gallagher, C.H.J., X, i, 1950, pp. 36-58.

To some extent the policy apparently involved a conflict between two of his cardinal principles - the belief that the British government must do all in its power to stop the slave trade and the determination to maintain the rights of the indigenous people. The experience of Commissioner Maclean at the Gold Coast and the American colony at Liberia had suggested to Stephen by 1838 that the extension of European or American power at the expense of native sovereignty might aid the process of exterminating the ¹ trade. But other methods might achieve the same result.

For Stephen the chief goal of West African policy remained the extermination of the slave trade. Convinced that the trade could be attacked through the merchants and speculators in England and in Sierra Leone who either lent credit or had trade dealings with suspected slave traders, Stephen ² recommended warning and then prosecuting them. His superiors, however, were deterred by their fears of political repercussions since they felt that slave trading and legitimate trading were inextricably linked in ³ West Africa. ⁴ The Crown Law officers also had reservations. Even so

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1. Commissioners to Grey, 18 June 1838, minute, C.O. 267/150, f. 551; Barrow to Stephen, 25 Nov. 1836, minute, C.O. 267/135, Admiralty; Barrow to Glenelg, Sept. 1836, minute, C.O. 267/137, Barrow.
 2. Campbell to Glenelg, 9 Mar. 1837, No. 206B, Stephen's draft 17 May 1837, C.O. 267/140; Nicholls to Stephen, 11 Oct. 1839, minute, C.O. 267/156, f. 284.
 3. Doherty to Russell, 17 July 1840, No. 31, minutes by Russell 18 Nov. 1840 & Stephen 16 Nov. 1840, C.O. 267/159.
 4. Doherty to Russell, 20 Aug. 1840, No. 37, minutes, drafts and reply, C.O. 267/159.

expended elsewhere, the cause of civilization could best be advanced by allowing the British colonies in West Africa to be managed and controlled by westernized Negroes and, if possible, like Liberia, as politically independent units. This independence, however, could not apply to Sierra Leone which, as a long-established colony and head-quarters of the British anti-slave trade campaign in West Africa, must continue to be an imperial responsibility.¹

This vision disappeared when the 'new African policy' collapsed after the arrival in office of a government under Peel with a secure parliamentary majority. Stephen did not immediately abandon Madden - in fact he recommended Stanley, the incoming Secretary of State, to read Madden's digest of August 1841 and added "I have myself gone carefully through it".² But Stanley was unwilling to take any decision on the report until a further digest had been compiled on the evidence and he asked that Stephen undertake this task.³ Before doing so, Stephen for the first time offered his opinion on some of Madden's recommendations on the subject of slave trading. He

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1. This seems the most likely explanation of Stephen's famous remark that "neither the Gambia nor the Gold Coast are worth retaining - or that if retained they should be placed exclusively in the hands of mulattoes and Negroes from the West Indies and left to maintain themselves like the American Settlement of Liberia". Stephen's memorandum, 26 Dec. 1842, C.O. 96/2, quoted in Curtin, Image of Africa, p. 459.
 2. Stephen's memorandum, 3 Sept. 1841, C.O. 267/170, f. 310.
 3. Stanley's memorandum, 25 Sept. 1841, C.O. 267/170, f. 317.

again protested about the illegal assertion of extra-territorial jurisdiction - though Madden had approved it - without a supporting act of parliament. In Stephen's opinion it could only lead to continual warfare and endless usurpations of native sovereignty. In opposition to Madden he also insisted that the British slavery abolition acts covered all cases of aiding and abetting slave trading and so could not be improved by further legislation. And he repeated his view that the only change necessary in West Africa to ensure that anti-slave trade policies were enforced was to appoint trustworthy officials and competent judicial officers. He was still prepared to accept that anti-slave trade treaties with native chiefs could be useful but, unlike Madden, he thought they were hazardous since, if broken, they would involve military intervention.¹ Obviously, even before he had examined them in detail, not all of Madden's recommendations had appealed to Stephen.

In the digest which he completed a month later, Stephen challenged Madden's views much further. It may be that this was because he was criticising the full reports for the first time: or perhaps the fact that expert criticism had demolished much of the evidence impressed him.² But he stressed as never before the inadequacies of Madden's investigations. He offered partial defences for those individuals whom Madden had attacked; and he denied Madden's competence to pronounce on such subjects as emigration.

1. Stephen to Hope, 30 Sept. 1841, C.O. 267/170, f. 319.

2. Gallagher, C.H.J., X, i, 1950, p. 53, fn. 120.

His summary was a dry statement of the points which Madden had raised and was accompanied by a note to Stanley reminding him that decisions were still to be taken on most of the questions which Madden had examined.¹

Stanley was not the man to be brave where Russell had been cautious. He postponed consideration of the drafts and, typically, failed to keep Stephen² informed of his intentions.

Stephen's concern about expansionism and the undermining of native sovereignty had been partly reawakened by acting-governor Carr, a twenty-two year old lawyer³ who had temporarily replaced Jeremie as Sierra Leone's governor. In 1841 a disturbance broke out between the Temne inhabitants and recaptive settlers in Quia in which a settler was killed. Carr immediately resolved to use this incident as a pretext for annexation.⁴ He opened negotiations, backed by threats of force, for the cession of the territory. Stephen was obviously upset by this action. He advised Stanley strongly against using force to acquire Quia. He again repeated his opinion that though the purchase of Quia might be desirable it was first necessary to submit the proposal to detailed examination. Carr's action, he felt, was evidence that some assertion of extra-territorial jurisdiction might also be desirable to keep British colonial settlers from involving the colony in native wars. But this, of course, could be

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1. Stephen to Hope, 29 Oct. 1841, C.O. 267/170, f. 329; see also Stephen to Hope, 30 Oct. 1841, C.O. 267/165. appendix.
 2. Carr to Russell, 16 Aug. 1841, No. 32, minutes, C.O. 267/165.
 3. Carr to Russell, 27 Apr. 1841, No. 3, C.O. 267/164.
 4. Carr to Russell, 27 May 1841, No. 10, C.O. 267/164.

legalized only by passing an act of parliament. Stanley would have to decide whether either or both proposals were expedient.¹ On receiving this advice Stanley decided to consult the cabinet.²

Stephen's role in the formation of policy inevitably changed under Stanley since his superior kept secret many of his aims and objects in conducting his administration. Stephen continued to write memoranda on important questions relating to the slave trade in Sierra Leone but these concluded not with recommendations, as under Russell, but with questions which the secretary was left to answer.³ Nor were Stanley's decisions, when they finally emerged, always very satisfactory from Stephen's point of view. For example, he decided that Quia was not to be annexed and there was to be no formal assertion of extra-territorial jurisdiction. Instead the governor was to be asked to use his influence with the chiefs to stop the slave trade and to allow British subjects involved in criminal cases in country areas to be tried in the colony's courts.⁴ This seemed an unfortunate compromise since it asked for the exercise of power without the responsibility. Stephen may have been happier with the provision that

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1. Carr to Russell, 20 July 1841, No. 17, minutes, C.O. 267/164.
 2. Carr to Russell, 5 Aug. 1841, No. 27, minutes, C.O. 267/165.
 3. E.g. Stephen's memorandum, 23 Oct. 1841, C.O. 267/165, appendix.
 4. Carr to Russell, 1 Sept. 1841, No. 39, minutes, C.O. 267/165.

the governors were prohibited from making treaties with native chiefs which involved the sovereignty or protection of native lands or guaranteed¹ military aid. But this was the limit of Stanley's concessions.

It is quite clear, in fact, that Stanley was determined to limit Stephen's role by remaining as far as possible independent of his advice. From the start of his secretaryship this antagonism had become obvious. Stanley rejected Stephen's choice for the vacant governorship of Sierra Leone and appointed his own nominee, Colonel George Macdonald.² It was, however, a short-lived triumph. Stephen was able to insist that Fergusson be allowed to succeed to the acting-governorship if a vacancy occurred and, on Macdonald's resignation three years later, Fergusson was finally appointed³ to the chief position - the colony's first coloured governor. But normally Stanley was able to reject Stephen's advice with impunity. Within a month of his arrival in the office he had made this quite clear. When Stephen minuted on a dispatch from the Treasury that the British government ought to provide a healthy residence for the Sierra Leone governor as an economic measure as well as a moral duty, Stanley curtly reminded his subordinate that he expected to be given facts and not opinions from his civil

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1. Carr to Russell, 16 Aug. 1841, No. 32, draft reply, C.O. 267/165.
 2. Fyfe, Sierra Leone, p. 241.
 3. Macdonald to Stephen, 9 Oct. 1843, minutes, C.O. 267/183, Macdonald; Trevelyan to Stephen, 8 Dec. 1841, minutes, C.O. 267/168, Treasury; Fergusson to Stanley, 7 Sept. 1845, minutes and drafts, C.O. 267/187.

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servants. Small wonder if Stephen's minutes became more impersonal!

Stephen was not unaccustomed to Stanley's coldness and indifference, and he certainly had not forgotten their encounter in 1833. But the reappearance of a definite policy of avoiding or rejecting his advice suggests that there were new and possibly localised reasons relating to Sierra Leone for this to happen again in 1842. An explanation is probably to be found in the activities of Mathew Forster, a British West African merchant whom Madden accused of being involved in slave trading. ² Unfortunately for Madden, Forster quickly got word of these charges and immediately prepared his defence. ³ Using his contacts inside and outside parliament, he was able to dominate the Select Committee of the House of Commons which looked into Madden's charges in 1842. To prove his innocence beyond doubt, Forster decided that it was in his interests to demolish every part of Madden's report. ⁴

Forster secured as witnesses for the Committee's hearings such unbiased authorities as the merchant R. Nicholls who called Sierra Leone "a sink of financial iniquity of all sorts, of folly, cruelty and crime of every description", and ex-governor Campbell, Stephen's inveterate enemy. ⁵ ⁶

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1. Treasury to Stephen, 13 Sept. 1841, minutes, C.O. 267/168, f. 128.
 2. Madden's report, 31 July 1841, C.O. 267/171.
 3. Stephen gives a full account of the question under 'Results' at the end of his report in Stephen to Hope, 29 Oct. 1841, C.O. 267/170, f. 329.
 4. Metcalf, Maclean, pp. 276-86.
 5. P.P., H.C., (551), 1842, xii, evidence by Nicholls.
 6. P.P., H.C., (551), 1842, xi and xii contain the reports and evidence.

Stephen was deeply upset by this treatment from a man whose guilt as a slave trader he thought almost certain.¹ But Forster did not confine his attacks to the obscurity of parliamentary papers. Using his local Berwick newspaper, The Warder, Forster told his public:

"I have been at variance with the Stephen and Macaulay party which, for the last forty years have governed or rather misgoverned our colonies on the coast of Africa. I have repeatedly exposed their jobs and corrupt influence, particularly at Sierra Leone".

Obviously in view of this kind of virulent public abuse, Stanley could not afford to give the least impression that he might be bounden in any way to his under-secretary. But even this is no excuse for his failure to reply to these scurrilous attacks.²

Despite Stanley's coldness, Stephen had plenty of scope left for his energies. In 1842, when the government decided to refer the disputes over the Madden report to the parliamentary select committee on West Africa, Stephen spent some of his time assembling material for submission to the Committee.³ His function of legal reviewer also became again an important

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1. See his minute, 4 Aug. 1841, on Madden's report, 31 July 1841, C.O. 267/171 and Stephen to Howard, 13 Aug. 1841, C.O. 267/170, f. 308. For the abiding nature of this impression see Stephen's minute, 12 Dec. 1846, on Forster to Hawes, 10 Dec. 1846, C.O. 267/196, Forster.
 2. Forster to Stanley, 18 Nov. 1842, minutes, C.O. 267/179, Forster.
 3. Fergusson to Stanley, 30 Jan. 1842, No. 12, minutes, C.O. 267/175.

element in his work since he could get round Stanley by pronouncing ex cathedra judgements on subjects which might otherwise be treated politically.¹ Occasionally, too, on subjects in which he took a particular interest, Stephen continued to be extremely influential.

One of his principal interests was in education. Stephen noted with pleasure that the missionary societies, while engaging in friendly competition, had made a very substantial contribution to public education in the colony in the years since the government had made provision for recaptive schools. But when the acting-governor suggested that the local government should extend its contribution and also engage in public education programmes by setting up a number of schools on its own, he advised against supporting the proposal. He feared that missionary societies, if confronted with government competition, would simply withdraw part of the sums which they spent on education. The best method for the government to help was by promising a subsidy of 10% of their current expenditure to each missionary group engaging in educational work, provided their contribution from their own funds was not diminished as a result.² He also approved of the local government's proposal to build a select school for what Stephen called rather bluntly "the more respectable (that is the wealthier) class" of citizens, on the understanding that it should maintain itself by fees.

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1. E.g. Fergusson to Stanley, 26 Jan. 1842, Nos. 6 & 7, minutes, C.O. 267/175.
 2. Fergusson to Stanley, 30 Jan. 1842, No. 12, minutes, C.O.. 267/175.

"The good education of the comparatively rich", be believed, "is an object¹ of great importance for the advantage of all branches of the community". This view clearly shows that he was not unmindful of the future welfare of the colony.

Stephen's recommendations for education had a difficult passage² despite support from the Church Missionary Society. Since the Treasury was notoriously keen to keep expenses on education to a minimum, Stephen suggested that the governor should be asked to review the whole question without considering Treasury reservations. But Stanley dogmatically insisted that any form of state intervention was harmful and that the Treasury was justified in its complaints. Government-aided education for the recaptives, Stanley maintained, had led them "to look to the government for everything, and has tended to check the feelings or the desire of independence".³ The governor, however, ultimately reported in favour of Stephen's plans and the small government commitment to education survived.⁴

By 1845 the success of the recaptive emigration to Badagry and the Wesleyan mission which accompanied it⁵ and the relative failure of emigration

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1. Macdonald to Stanley, 20 May 1842, No. 24, minutes, C.O. 267/175.
 2. Coates to Stanley, 23 May 1842, C.O. 267/178, C.M.S.
 3. Trevelyan to Stephen, 2 Aug. 1842, minutes, C.O. 267/178, Treasury.
 4. Macdonald to Stanley, 12 June 1843, No. 45, minutes and drafts, C.O. 267/181.
 5. J.H. Kopytoff, A Preface to Modern Nigeria: The "Sierra Leoneans" in Yoruba, 1830-1890 (Madison, Wisconsin, 1965), pp. 24-133.

to the West Indies led to an alteration of Stephen's views on emigration. Instead of wishing to see the newly-arrived recaptives shipped off to the West Indies for their material and moral benefit¹ Stephen became convinced that the salvation of the reclaimed Negro must lie in Africa itself. He pointed out that the Church Missionary Society had almost completed the building of a college "in which African teachers are to train African missionaries": and even in material terms the condition of the recaptives under missionary leadership in the villages was fast improving. These developments, according to Stephen, had resulted in "inducing the Africans to regard Sierra Leone as their settled home and as the cradle of African civilization". By implication the government should give support to educational programmes in Sierra Leone rather than to emigration programmes to the West Indies.² His superiors, however, were not convinced. Not until Gladstone replaced Stanley was Stephen's opinion officially endorsed.³

Even in an age of government retrenchment Stanley's period at the Colonial Office was remarkable for its concentration on economy. Not in education alone but in public works and in almost every other field of government expenditure, the Treasury was allowed to retrench severely on colonial estimates.⁴ The sums spent on the Liberated African Department

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1. Carr to Russell, 19 Aug. 1841, No. 35, minute, C.O. 267/165.
 2. Fergusson to Stanley, 8 Apr. 1845, No. 24, minutes, C.O. 267/187.
 3. Fergusson to Stanley, 26 Nov. 1845, No. 94, minutes, C.O. 267/189.
 4. See e.g. Trevelyan to Stephen, 13 Oct. 1842, C.O. 267/178, Treasury; Trevelyan to Stephen, 13 Sept. 1841, C.O. 267/168, f. 128, Treasury.

were cut substantially and charges transferred from the imperial to colonial funds.¹ Stephen became alarmed at this indiscriminate parsimony. On one occasion the Treasury threatened to stop the parliamentary grant for the support of the colony altogether, but Stephen, with the help of ex-governor Doherty,² forestalled them.

This renewed faith in the colony at a time when it was again under attack is most striking. It brought results even in the constitutional field. In 1843 parliament finally passed two foreign jurisdiction acts to provide that necessary legalistic basis to the assertion of extra-territorial jurisdiction in West Africa which Stephen reluctantly had insisted upon for years.³ He himself undertook the task of drafting the bills. But Stanley's influence was still marked. The provisions governing the origins of this power were probably much more vague than Stephen would have liked and it was not until 1850 that it was decided to limit the jurisdiction to territories in which the sovereign chiefs had agreed to its exercise by treaty.⁴

1. Fyfe, Sierra Leone, pp. 228-9.

2. Doherty to Hope, 30 Oct. 1841, minutes, C.O. 267/166; Treasury to Stephen, 13 Oct. 1841, minutes, C.O. 267/168, Treasury. Stephen also attempted to keep slave trade expenditure on imperial funds: e.g. Admiralty to C.O., 7 June 1845, C.O. 267/190, Admiralty. But he was not always successful: Trevelyan to Stephen, 2 July 1845, C.O. 267/190, Treasury.

3. Statutes, 6 Vict. c. 13 and 6 & 7 Vict. c. 94.

4. C.H.B.E., II, p. 667.

At the same time it was decided to introduce into one of the acts a provision which would put beyond any doubt the legislative authority of the West African governments, another of Stephen's favourite topics since 1823. Again this was less than a total triumph for him. He had suggested in preparing the draft that the crown should relinquish its power of direct legislation in crown colonies - a far cry from his view in the days when West Indian slavery was under consideration. Time and experience had given him greater faith in local institutions. "The Crown", he wrote, "may almost always calculate with absolute confidence on the obedience and support of colonial legislature of its own nomination". But this idea did not appeal to his superiors and was dropped.

Stephen's faith in the future of the colony is also shown in his willingness to allow legislative initiative to pass back to the local legislature. This applied particularly in the case of judiciary reform. The original charter of justice had proved unsatisfactory and imperial attempts to correct its defects had not been uniformly successful. To Stephen, since no-one in England was competent to deal with Sierra Leone's particular needs, the best solution seemed to be to authorise the Sierra Leone legislature to make any regulation it wished for the administration of justice in the colony. Twenty years before the passing of the Colonial Laws Validity Act, Stephen was attempting to destroy one of the reserved spheres of imperial authority by allowing the local legislature to determine

1. Law Officers to Hope, 31 Mar. 1843, minutes, drafts & memoranda, C.O. 267/182, Law Officers.

the composition and constitution of judicial tribunals. He had his way. The new regulations, drafted by the permanent under-secretary himself,⁶ ¹ went into operation in 1846.

It was Gladstone who finally decided to accept Stephen's advice in dealing with the charter of justice. Gladstone, unlike his predecessor, felt few qualms about resorting to his under-secretary when in need of assistance. In fact, after coping with Stanley's indifference, Stephen² found himself confronted with the new problem of Gladstone's deference. An emphatic change took place on questions of policy. Instead of allowing the Treasury to transfer the costs of the local establishment from imperial to colonial funds, for example, Stephen was able to offer them a rebuff. Confident of support, he³ issued his warning even before his superior had pronounced on the subject:

"Gladstone is strongly impressed with the conviction that the policy of throwing additional burdens on the poor and innumerable population of a colony not sufficiently advanced to possess a representative assembly, should not be adopted without much caution nor without some preliminary reference (when possible) to the local authorities".³

As Stephen's influence over policy returned, so significantly did the concentration on furthering anti-slave trade activity. In the free trade

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1. Fergusson to Stanley, 27 Sept. 1845, No. 76, drafts, minutes & memoranda, C.O. 267/189.
 2. E.g. Fergusson to Stanley, 29 Nov. 1845, No. 96, minutes, C.O. 267/189.
 3. Trevelyan to Stephen, 21 Apr. 1846, minutes and drafts, C.O. 267/195, Treasury.

decade of the 1840s several proposals were made which tended towards the opening up of West African trade to every nation on equal terms. In 1844, for example, the Foreign Office proposed to the Board of Trade that the Hanse towns should be given warehousing facilities in Sierra Leone. In passing this on to the Colonial Office, the Board then widened the proposal by asking that Freetown, capital of Sierra Leone, should be made a free warehousing port. Stephen considered the question in relation to the general benefits for the colony and decided to advise against its implementation. He pointed out that there were two main objections: the warehousing system might encourage slave trading there or at least make it more difficult to prevent. In addition it might adversely affect the colony's customs revenue or, by requiring extra expenditure on administration, indirectly affect its finances. The first point was considered crucial and since Stephen's fears were subsequently substantiated by the governor¹ and by other government officials, the plan was dropped.

Grey, like Gladstone, depended heavily on Stephen's opinions when dealing with the administration of Sierra Leone. When the papers were very long, Grey preferred to rely wholly on his under-secretary rather than waste time on mastering details.² Consequently, even in his last year in

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1. Canning to Stephen, 22 Aug. 1845, correspondence, minutes & drafts, C.O. 267/190, Board of Trade; Addington to Hope, 29 Sept. 1845, C.O. 267/190, F.O.; Macdonald to Stanley, 30 Jan. 1846, No. 28, minutes, C.O. 267/191.
 2. E.g. Macdonald to Grey, 10 Nov. 1846, minutes, C.O. 267/194.

office, Stephen continued to be a major influence in the determination of policy. He used this power to advance two basic causes which he had come to feel were the most important - to free Sierra Leone from the stigma¹ of being a slavers' den which Madden had unfortunately encouraged, and to prevent frontier expansion from disrupting the settlement or undermining² the rights of the native peoples. The latter cause consistently suffered reverses. Neither Stephen nor his secretary of state could possibly control effectively the daily actions of the settlers or governors. In 1846, despite all the Colonial Office attempts to prevent it, a war broke out between settlers and Temne over a settlement of recaptives on the Bullom shore, near the north end of the Sierra Leone peninsula, in a situation almost exactly like that of Quia.³ But, while he remained in office, his vigilance was unceasing. For example, he stopped the Bullom shore war immediately by getting his superiors to threaten Governor Macdonald with dismissal.⁴

Even in his last years in office, Stephen never became an advocate of a

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1. Macdonald to Gladstone, 31 Mar. 1846, No. 64, minutes, C.O. 267/191.
 2. Macdonald to Gladstone, 9 Apr. 1846, No. 71, minutes, C.O. 267/191.
 3. Macdonald to Gladstone, dispatches Nos. 71, 107, 109, 123, C.O. 267/193, appendix.
 4. See minutes by Stephen, 18 Sept. 1846, Hawes, 21 Sept. 1846 and Grey, 2 Dec. 1846 after dispatches Nos. 71, 107, 119, 123, C.O. 267/193, appendix.

forward policy in West Africa. He certainly urged the Sierra Leone governor to abandon customary tokens of fealty to African chiefs and insist¹ that the colonial authorities be treated with respect. But he did not approve of unnecessary involvement in African affairs. Western commerce and agriculture, he believed, ultimately would conquer the slave trade and advance civilization; treaties with the chiefs would aid this process; but the costs to the government of extending their African commitments were almost prohibitive. The most that could be done was to wait till opportunities presented themselves for the government to step in and encourage legitimate trading or discourage slaving. Any more ambitious programme² would fail.

One historian has recently suggested that Stephen was "not perhaps at his best on African questions".³ Since he was liable to confuse the Niger and the Congo, this is no doubt fair comment!⁴ Especially in his later years Stephen was inclined to get bored or frustrated by the attempts to advance the interests of the colony of Sierra Leone. In a letter to his wife in 1842 about a meeting at the Colonial Office with her brother Henry Venn, the later Secretary of the Church Missionary Society, Stephen amusingly

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1. E.g. Stephen to Hawes, 18 Sept. 1846, after dispatches 71, 107, 119, 123, C.O. 267/193, appendix.
 2. Stanley to Stephen, 12 May 1847, minutes, C.O. 267/201, F.O.
 3. Metcalfe, Maclean, p. 204.
 4. Gallagher, C.H.J., X, 1, 1950, p. 46, fn. 57.

described this feeling:

"Your brother Henry has been here talking about Sierra Leone with an interest in the place and people which I quite envy. To me a colony is as turtle soup to an alderman - daily fare and hardly palatable". 1

Certainly Sierra Leone never appeared to him as one of the more promising imperial ventures and enthusiasm was correspondingly difficult to maintain. But the remark was meant to amuse and engage and must not be taken too literally. His official actions were more accurately epitomised in a remark which he once addressed to the irascible governor Campbell. "Sierra Leone", he wrote, "is a colony emerging after many disasters and difficulties into great importance not only in a national view but also in its bearing upon the future condition of the African race". 2 The Clapham spirit had not deserted him.

1. Stephen to J.C. Stephen, 21 Feb. 1842, Stephen Papers, Journal of letters to J.C.S., 1816-1845.

2. Stephen's draft 27 Sept. 1836 after Campbell to Glenelg, 6 May 1836, No. 67, C.O. 267/138.

CHAPTER V

James Stephen and the Administration of Ceylon

Stephen's work on Ceylonese administration in the period before he became under-secretary was much more purely technical and much less personally involved than his work on Trinidad or Sierra Leone. Ceylon was not one of his earliest concerns nor one of his particular interests. He was asked to consider one Ceylonese question in 1816¹ but his services were not used thereafter until 1823 when Wilmot Horton began to refer Ceylonese legal problems to him regularly.² Even for several years after 1823, his reports and memoranda display nothing of the specialist knowledge or enthusiasm which characterised his early work on the West Indian and West African colonies. When asked to review proposed amendments to the governor's commission and instructions in 1823, for example, Stephen's main comment was strictly formal and correct: "I do not think," he wrote, "that any question of a legal nature will arise".³ It was only very gradually that he began to acquire sufficient confidence to take a more positive approach.

Though he initially limited his attention to forensic subjects, he could still find an opportunity to demonstrate his special talents to his

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1. List of Stephen's reports for 1816, C.O. 323/40, f. 120.
 2. Section labelled 'Stephen', C.O. 54/85.
 3. Stephen's report, 31 Mar. 1823, C.O. 54/85, Stephen.

superiors. Legal enquiries were seldom purely technical. In drafting one order in council, for example, Stephen ranged so much more widely than instructed that he felt obliged to apologise to his chief:

"You will observe that the terms of the draft are more general and extensive than those which your letter has pointed out, but I conceive that the necessity of this deviation from the precise language of your instructions will be apparent on referring to the documents which accompanied them". 1

If he was less well informed on Ceylon than on other colonies, Stephen, as this remark shows, remained alert when performing his technical duties. Specialised knowledge was not, after all, the only basis for a legal judgement. As counsel, he could always insist on the observance of certain² abstract principles of contemporary British jurisprudence. His early reports on Ceylon have exactly those characteristics which distinguish his work elsewhere. Two subjects especially, the defence of the rights of indigenous peoples against the preponderant influence of European settlers in the legislature and the protection of the individual against the authoritarian local government, occupied his mind and informed what he wrote just³ as much in the case of Ceylon as with other colonies.

Stephen's reluctance to assume the initiative more frequently was a policy decision which he deliberately adopted as well as a reflection of

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1. Stephen to Wilmot, 18 Apr. 1823, C.O. 54/85, Stephen.
 2. E.g. Stephen to Horton, 6 July 1824, C.O. 54/87, Stephen.
 3. E.g. Stephen to Horton, 19 Apr. 1824, Stephen; Stephen to Horton, 23 June 1824, C.O. 54/87, Stephen.

his ignorance of local Ceylonese detail. In 1823 the home government had appointed an official commission of investigation for the eastern colonies. Its members were to visit South Africa, Mauritius and Ceylon in turn to examine into the state of government and administration in these crown colonies. Ceylon came last and, since the commissioners' investigations were prolonged, it was not in fact until 1829 that the first commissioner, William Colebrooke, arrived in the island, followed a year later by his¹ colleague, Charles Cameron. In the six or seven intervening years the consideration of Ceylonese questions was frequently postponed to await the commissioners' reports. Quite often Stephen was responsible for these postponements. He wanted the commissioners to be thorough in their work and to deal with fundamental questions. If before their investigations had even begun the Colonial Office was to take decisions based simply on the regular sources of information, he reasoned, the commissioners would be reduced to sitting in judgement on "contemporary determinations of the government at home on the subject of their enquiries". It was far preferable² that they should be allowed to tackle the subjects in depth.

Outside the legal sphere where the reasons against interfering did not operate so strongly there was a still more fundamental objection to the home government assuming the initiative. Stephen felt that geographic

1. For the origins of the commission as it affected Ceylon, G.C. Mendis (ed), The Colebrooke-Cameron Papers (Oxford, 1956), I, pp. xiii-xiv; xxxi-xxxv.

2. Stephen to Hay, 19 Sept. 1825, C.O. 54/90, Stephen. See also Stephen to Hay, 6 May 1826, C.O. 54/95, Stephen.

separation and British ignorance of the East combined to render interference impracticable:

"In so distant a possession as Ceylon, and in a country of which the usages are so remote from those of England, it would, I apprehend, be impossible to regulate with propriety the details of business, whether political or judicial, except upon the judgement and responsibility of the local authorities".¹

Of course, the British government could not abdicate its control: the local authorities would be required to determine what measures were necessary or expedient in practice. But the home government would still pronounce on general policy. The counsel's work, though rather negative, remained an important part of the process of imperial supervision.

Perhaps the most important Ceylonese subject which Stephen dealt with in the 1820s was the dispute between the chief justice, representing the Supreme Court, on the one hand, and the governor on the other. Their disagreements were partly personality conflicts and partly a reflection of a competition for power. The two offices were mutually independent and had similar status through their direct appointment by the Crown. The charter of justice of 1801 conferred extensive powers on the Supreme Court over the criminal jurisdiction of subordinate courts. This implied in Ceylon, (where many officials combined both judicial and executive functions) a degree of control for the Supreme Court over the public service which the governors resented as an intrusion into their authority.²

1. Stephen to Horton, 28 Aug. 1825, C.O. 54/90, Stephen.

2. P.D. Kannangara, The History of the Ceylon Civil Service, 1802-1833 (Dehiwala, Ceylon, 1966), pp. 12-15.

To bring Ceylon more into line with other colonies, the home government in 1823 decided to check the growing independence of the Supreme Court by insisting that a number of the highest judicial offices should be reserved for appointment by the Crown instead of by the chief justice. Where the chief justice retained his right to appoint to offices, the governor's approval was to be required. No new judicial offices were to be created until both agreed. Stephen was employed to draft the requisite legal forms to give effect to these decisions.¹ The work immediately involved him in controversy. Neither the governor nor the chief justice would accept the new arrangements. The governor demanded the right to appoint to judicial offices without consulting the chief justice and the chief justice objected to losing a power which he felt had been guaranteed to his office by the constitution. Stephen, since he had been involved, was asked to comment though the dispute was not purely a legal one. He saw force in both arguments but was not prepared to concede that the government had acted wrongly. On the contrary, he justified the decision to give the patronage of leading offices to the crown on the grounds that the secretary of state possessed a wider choice of candidates and was more likely to be impartial than local authorities. He was also of opinion that for professional and legal reasons the chief justice should retain his powers and be required to act in concert with the governor when judicial appointments were made. Even

1. Stephen to Wilmot, 6 Mar. 1823, Stephen; Stephen to Wilmot, 18 Apr. 1823, C.O. 54/85, Stephen.

if they disagreed, a compromise between their two different viewpoints,¹ he felt, was both possible and desirable. This opinion is typical of his early work in the stress laid on exerting greater imperial control over the local officials and in the belief in a separation of powers theory of government.

In this case Stephen was arguing that the constitutional balance between the executive and judiciary had been threatened by the governor's attempt to act alone. The dangers of autocracy were also involved in his opinion on a celebrated legal case in 1824. The governor had attempted to deny the Supreme Court's right to issue a habeas corpus writ to an arrested army deserter called Rossier by passing an ex post facto ordinance to invalidate judicial interference. Stephen's comment was forceful and direct:

"My opinion is that the Supreme Court of Ceylon had the right to award the habeas corpus in Rossier's case; and that the Lt. Governor in Council had not authority to promulgate a law so directly repugnant to the fundamental principles of the British Constitution; and that if it was necessary to provide for the safe detention of the particular state prisoners [army deserters] to whom the governor refers, that object might have been effectually secured without putting in jeopardy the personal liberty of all classes of H.M.s subjects in Ceylon". 2

Whatever the local circumstances individual liberty was to be safeguarded even under an autocratic government by an appeal to the principles of the British constitution.

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1. Stephen to Horton, 28 Aug. 1825, C.O. 54/90, Stephen.
 2. Stephen to Horton, 23 June 1824, C.O. 54/87, Stephen. See also Stephen to Horton, 6 July 1824, C.O. 54/87, Stephen.

The notion of a constitutional balance implied that both sides would be kept in check. Though he was an opponent of gubernatorial despotism in these years, Stephen was also no friend of a chief justice who sought to increase his powers at the governor's expense. In 1825, on his advice, it was ruled that the Supreme Court legally possessed only the power of regulating its own practice, process and proceedings, and not, as it had attempted to exercise for years, the power to make general regulations for the police force. A supervision over the police, Stephen suggested, properly lay with the executive of governor and council. His decision may have been influenced by the fact that the Supreme Court, in determining police regulations, had fixed the provisions for granting bail so that the rights of the poor were ignored.¹ Stephen did not see the dispute between the governor and chief justice as one between an authoritarian and popular agency, as some later commentators have done,² but as a conflict between two authoritarian officers which could be resolved if the home government kept them to their respective spheres.³

From this insistence on local initiative and the rather negative role of preserving the constitutional balance which he ascribed to the home

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1. Stephen to Hay, 17 Sept. 1825, C.O. 54/90, Stephen.
 2. Kannangara, Ceylon Civil Service, p. 16.
 3. E.g. Stephen to Hay, 3 June 1826, C.O. 54/95, Stephen; Stephen to Hay, 6 June 1826, C.O. 54/95, Stephen; Stephen to Goderich, 18 Aug. 1827, C.O. 54/99, Stephen; Stephen to Hay, 30 June 1830, C.O. 323/47, f. 198.

government, Stephen gradually came to adopt a more positive approach. The pressing need for judiciary reform especially served as a catalyst in breaking down his reluctance to take action. As his earliest reports show, he had immediately gained an unfavourable impression of the workings¹ of the Ceylon charter of justice and he was convinced that the commissioners² of investigation inevitably would recommend extensive reforms. When it appeared that the commissioners' inquiries would be delayed for years, however, his decision to await their report could no longer be supported.³ He felt obliged to make recommendations for reforms himself. His main proposal, in keeping with his earlier policy, was to ask the governor and chief justice to submit separate suggestions for judiciary reforms. When they had done so, the home government could collate their suggestions and issue a new, amended charter of justice.⁴ This proved unnecessary. Before the reports could be completed, the commissioners arrived in Ceylon.

In other fields, too, he became impatient with the survival of what seemed to him illiberal customs and usages. In 1827, for example, he

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1. Stephen to Wilmot, 6 Mar. 1823, & Stephen to Wilmot, 18 Apr. 1823, C.O. 54/85, Stephen.
 2. Stephen to Wilmot Horton, 28 Aug. 1825, C.O. 54/90, Stephen; Stephen to Hay, 6 May 1826, C.O. 54/95, Stephen.
 3. Stephen to Hay, 18 Nov. 1826, C.O. 54/95, Stephen.
 4. Stephen to Twiss, 21 Oct. 1828, C.O. 323/45, f. 292; Stephen to Twiss, 10 Nov. 1828, C.O. 323/45, f. 296.

protested about a local regulation which attempted to safeguard a royal commercial monopoly by forbidding private individuals to cut cinnamon plants even on their own lands. The regulations were legally unimpeachable since they were in accordance with past laws and precedents on the subject, but to Stephen they contained "a maxim of much apparent hardship". His superiors concurred and decided to submit the question to the commissioners¹ for a full enquiry. A year later the governor, learning that plants were being smuggled from Ceylon into the Dutch colonies in Indonesia, passed an ordinance to prevent the private exportation of cinnamon. To Stephen this was even more objectionable. It was inconsistent with the "common obligations of mankind"-to share the fruits of the earth-and also politically unenlightened. But on this occasion his superiors, protecting their² monopolistic profits, could not agree.

Royal economic monopolies were not the only entrenched Ceylonese customs which Stephen attacked. By 1828 he was also prepared to question laws which countenanced the maintenance of the caste system, the very basis of contemporary Ceylonese social life. "The obligations of caste being purely of a religious nature", in Stephen's view, "they ought not to be enforced by human laws, unless the legislator sincerely adopts the religious opinions of

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1. Stephen's memo and minutes, n.d., 1827, C.O. 323/44, f. 232; Stephen to Hay, 21 Feb. 1829, C.O. 54/106, Stephen.
 2. Stephen to Twiss, 9 Dec. 1828, and minutes, C.O. 323/45, f. 298. For another instance of an attack on monopolies; Stephen to Hay, 30 June 1830, C.O. 323/47, f. 198.

the people at large on the subject".¹ This was certainly a much more radical opinion than his superiors - and perhaps than Stephen himself - realised. In Kandy, which had been conquered as recently as 1815, the distinction between civil and religious spheres which Stephen drew was largely spurious,² and even in the maritime provinces the British administration had utilised service land tenures and caste obligations like the Portuguese and the Dutch before them. To dissociate the government from the caste system except where it could be justified on non-religious grounds was a major undertaking.³

Nonetheless Stephen was sincere in wishing to see British liberal concepts, however incongruous, introduced into Ceylon. By 1830 he had acquired sufficient confidence to feel able to generalise about the needs of Ceylonese society and he began to see the home government as the special protector of the rights of the majority. His knowledge of the people suggested that they did not resent an autocratic government interfering in their daily lives as much as Europeans would do. "It may readily be believed", he wrote, "that the sensibility of an Oriental people is much less lively upon annoyances of this nature, than those of a free European society". But in some fields which he investigated, such as the right of

1. Stephen to Twiss, 9 Dec. 1828, and minutes, C.O. 323/45, f. 298.

2. Ralph Pieris, Sinhalese Social Organization - The Kandyan Period (Colombo, 1956), pp 169-187.

3. Kannangara, Ceylon Civil Service, pp. xi-xxi.

doubtful authority -

the wealthy to acquire and possess the social symbols of wealth and status, the feelings of Europeans and Orientals, he decided, were identical. It was desirable, therefore, that the local government should adopt a more liberal approach where comparisons between Ceylon and Britain were applicable. When an attempt was made by the governor to create a monopoly for Europeans in elephant hunting, Stephen concluded that even with the authority of the imperial government:

"it is impossible but that in their measure and according to the comparative submissiveness and languor of their national character the Cingalese should regard such a regulation...as an harsh and painful badge of servitude".

As the upholders of "the fundamental laws of civil society", the British government, in his opinion, should use its powers to ensure that the rights¹ of the Ceylonese were not compromised by the local government.

In his book on the history of the Ceylon civil service Dr. Kannangara has recently maintained that "the balance between authoritarian and liberal forms of Government, which had been prevalent in the Colony, was tilted in favour of more liberal institutions even before the Colebrooke-Cameron Commission submitted its recommendations² for administrative reform in Ceylon". There is no doubt that before 1833 liberal forces were at work in Ceylon and their success must be in large measure attributed to the help and encouragement of the legal counsel at the Colonial Office. But at no time

1. Stephen to Hay, 28 Aug. 1830, C.O. 323/47, f. 200.

2. Kannangara, Ceylon Civil Service, p. 213.

did he, or anyone else, really threaten the autocratic nature of Ceylonese government.

The Colebrook-Cameron report is rightly regarded as a landmark in Ceylonese history.¹ It provided one of the great state papers of the 19th century, a counterpart to Lord Durham's report on British North America, based on extensive research and observation, and illuminated by a philosophy of liberalism and utilitarianism. The commissioners successfully urged the adoption of far-reaching reforms in Ceylonese administrations in an attempt to create in the East a model capitalist, competitive, liberal society in the image of the mother country. Their work was not entirely novel. Many of their proposals, though often carried much further, bear a distinct resemblance to those which Stephen had been advocating. For example, they questioned government monopolies in agricultural production and in commerce and recommended the abandonment of the government plantations in cinnamon and the abolition of its monopoly in trade. They also objected to the system of compulsory services and criticised the maintenance of the caste system.²

On legal reform particularly, the commissioners' report and Stephen's recommendations were extremely similar.³ Indeed, Stephen helped to defend

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1. For two recent interpretations, see Mendis, Colebrook-Cameron Papers, I, pp. ix-lxiv & Kannangara, Ceylon Civil Service, pp. 223-61.
 2. Colebrooke's reports are printed in Mendis, Colebrooke-Cameron Papers, I, pp. 9-120, 189-233.
 3. Mendis, ibid., I, pp. 121-188; see also Stephen to Hay, 8 Oct. 1834, C.O. 323/50, f. 381.

the commission's suggestions when they encountered criticism.¹ It was Stephen, too, who was employed to draft the charter of justice of 1833,² based on Cameron's report, which gave Ceylon a new judicial structure. The charter attempted to introduce into the judiciary many of the newest ideas of English jurisprudence derived from Jeremy Bentham's speculations. Stephen and Cameron co-operated on the work at various stages and disagreed only on one major point. Stephen, with his usual concern for the poor in society, felt that some provision should be made for a summary jurisdiction of petty criminal and civil cases to give cheap and rapid justice. But Cameron disagreed and got his way.³

There is also some evidence to suggest, though not conclusively, that Stephen favoured, and perhaps helped to support, the proposal that the governor's powers should be curbed. Dealing with a case in 1834, a year after most of the commission's recommendations had gone into force, Stephen presented a general historical argument to justify the removal of the governor's autocratic powers. At its conquest, Ceylon, he maintained, had been given a constitution modelled in some respects on that of the old West

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1. Stephen's observations 7 Aug. 1832 on Marshall's observations, 14 July 1832, C.O. 54/120, f. 238.
 2. Howick to Stephen, 25 Aug. 1831, C.O. 55/71, p. 365; Stephen's memorandum 20 Jan 1842, after Campbell to Stanley, 22 Nov. 1841, No. 3, C.O. 54/191.
 3. Stephen to Hay, 16 June 1832, C.O. 54/120, f. 200; Campbell to Stanley, 18 Apr. 1842, No. 56, minute, C.O. 54/196; Stephen's memorandum 20 Jan. 1842 after Campbell to Stanley, 22 Nov. 1841, No. 3, C.O. 54/191.

Indian colonies though without the assembly. The constitution, particularly after the conquest of Kandy, became incongruous. With a native population larger in numbers than all the West Indian islands put together, living under a code unlike any in Europe, and a European population living under Roman-Dutch law, the ambiguities in the original constitution were made evident. The people of Ceylon were too accustomed to gubernatorial autocracy to complain. But the commissioners rightly feared that the governor's powers might become oppressive and, therefore, sought to curb them. The new commission and instructions, which the governor received in 1833, were¹ accordingly designed to reform the original constitution. The Colebrooke-Cameron reforms, then, were viewed by Stephen as both a measure of liberalisation in government and as part of the process of adaptation to an oriental environment.

Despite these large areas of agreement, Stephen was not completely satisfied with the commissioners' reports. His main criticism, judging by his later remarks, was that they were inclined to be too speculative or² theoretical in analysis and too radical or sweeping in their recommendations. There is an interesting insight into Stephen's immediate impressions in a minute which he wrote in 1835 on a Ceylon law dealing with judicial evidence. Mentioning that the subject brought to mind one of Jeremy Bentham's treatises,

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1. Stephen to Hay, 9 May 1834, C.O. 54/138, Stephen.
 2. His later criticisms were much more explicit on this point. E.g. memorandum on the civil service, 9 June 1845, C.O. 54/222.

Stephen pointed out that in drafting the law the local government had ignored Bentham's speculations in favour of English precedents. He approved:

"for however weighty may be the arguments of the great jurist to whom I have referred, I think it desirable that on such subjects the legislatures of the colonies should rather follow than attempt to precede the course¹ of public opinion and of legal reform in the parent state".

It could well be argued, as ex-governor Barnes did at the time, that Colebrooke's attempt in 1831-3 to create a fully egalitarian society in Ceylon, with a competitive capitalist economy and a government committed to free trade, was too far in advance of public opinion and of legal reform² in the parent state. Stephen does not say he thought so explicitly but this is certainly a possible implication of what he wrote. His attempts to dissociate civil law from the caste system, to put curbs on the governor's absolutism and to liberalise the legal system, all fell very far short of Colebrooke's plan to re-make Ceylonese society anew on a basis of a thorough-going, all-embracing plan of reform. There was also another obstacle. Stephen had expressed his faith in the desirability of consulting the local authorities: and the current governor, Robert Wilmot Horton (the man who had been Bathurst's under-secretary in the 1820s and Stephen's dynamo), was³ an outspoken critic of many of Colebrooke's proposals.

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1. Stephen to Aberdeen, 5 Aug. 1835, C.O. 323/51, f. 282.
 2. Mendis, Colebrooke-Cameron Papers, I, pp. xlvii-1, II, pp. 24-38; Kannangara, Ceylon Civil Service, p. 208.
 3. Mendis, Colebrooke-Cameron Papers, I, p. 1, 39-44; Kannangara, Ceylon Civil Service, pp. 241-243.

While Stephen was counsel most of these doubts and difficulties were lost in his general approval of the legal reforms. But when he became under-secretary, they began to approach the surface. In particular, Colebrooke's suggestions for the reform of the Ceylonese civil service (again a subject where Colebrooke's reforms had outpaced the mother country) slowly brought Stephen to the point of outright opposition. There can be no doubt that the Ceylonese civil service in 1833 had many weaknesses, but in the eyes of the British administrators its chief defect was its expensiveness. An extensive, highly paternalistic and exclusive organisation, the Ceylon civil service was one of the biggest, most highly organised systems of civil administration in the empire, comparable with the East India Company service in India. On its efficiency the government's success depended. Colebrooke was aware of its importance and of its defects but in making suggestions for reform he concentrated almost exclusively on its expense. This allowed him to propagate his own ideas on the need to use Ceylonese in the administration since they would do the same work as Europeans at less cost. With this in mind, he recommended the abolition of a large number of offices and the drastic reduction of many salaries, fully realising that this would discourage Englishmen from seeking civil service posts in Ceylon. At the same time he suggested that the service should be opened to free competition for everyone without reference to race or caste in order to find the men locally who possessed the requisite qualifications. When the new servants were recruited, Colebrooke suggested, the pensions normally

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paid to civil servants could be abolished.

Dr. Kannangara has recently presented a cogent case for Colebrooke's beliefs that qualified Ceylonese could have been found for many civil service posts and that free competition could have triumphed over caste barriers and other obstacles.² He concludes:

"the practicability of the plan rested on the question whether the officials who would be sent to govern the country would, like Colebrooke regard it as compatible with security, and whether in the light of the past development of the Civil Service and the nature of the Government, the rulers sent to the colony would be able to divest themselves of the feeling of being an exclusive and superior class".³

This analysis largely ignores the interests of the current English-appointed office-holders since they had accepted their appointments under specific terms which were now to be revoked. Their salaries were to be reduced and their prospects for promotion greatly diminished and some of them were to lose their offices altogether. Inevitably, it was on these peoples' grievances that the Colonial Office had to concentrate.⁴

This was the problem which Stephen first encountered as under-secretary. During 1836 and 1837 Horton submitted several cases for the attention of the secretary of state where English civil servants had been deprived of pay or

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1. Mendis, Colebrooke-Cameron Papers, I, pp. 212-230.
 2. Kannangara, Ceylon Civil Service, pp. 241-50.
 3. Kannangara, ibid., p. 243.
 4. Barrow's memorandum after Horton to Glenelg, 11 Feb. 1836, No. 36, C.O. 54/147.

prospects owing to the Colebrooke reforms. Stephen, in dealing with their claims, maintained that, judged by contemporary standards in Britain, their appeals were valid. Certainly there were instances where the cuts¹ could be shown to be unfair. But even where it was impossible to satisfy their claims, Stephen insisted, the Ceylon civil servants deserved to be treated with "attention and respect" as befitted "a meritorious class of public officers".² Initially this general support was as far as Stephen felt able to go. He refused to follow the criticisms made as to the justice of the reforms in general. Since the Treasury was demanding the strictest economies, he could do no more. But he did insist that despite Treasury parsimony every appeal by a civil servant should be reported and dealt with as a separate case on its own merits. As the complaints built up and the governor grew more insistent in their support, Stephen's patience began to wear thin. On one occasion the governor irregularly attempted to raise a number of salaries to stop the civil servants working in remote areas from deserting their posts. Stephen referred all his increases, though they were trifling, to the Treasury. When a clerk questioned this policy, he received a curt reply. "I understand that we are not to increase the establishments by the smallest fraction of a penny without the permission of the Treasury. If that be not the rule where is the line to be drawn?"³

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1. E.g. Stephen's memorandum, 8 June 1836, C.O. 54/146 on Layard case; Horton to Glenelg, 11 Feb. 1836, No. 36, minutes and drafts, C.O. 54/147.
 2. Horton to Glenelg, 3 May 1836, minute, C.O. 54/148.
 3. Horton to Glenelg, 29 June 1836, No. 102, minute, C.O. 54/148.

In other words, the Treasury was to be plagued with every niggling complaint¹ until it could see the need for a general reform.

An opportunity for a more constructive approach occurred late in 1836 when governor Horton submitted a new plan for a reform of the civil service. Horton rejected Colebrooke's plan for the admission of Ceylonese to the service. He stated that British recruits were and ought to be at the head of the civil service and that they should be paid according to a European and not a local scale. But he also criticised the government for insisting, against Colebrooke's recommendation, that the top class of civil servants should be appointed from England. Experience was essential in the leading offices and this implied the introduction of servants lower down the scale. Finally, he suggested introducing into Ceylon some of the civil service reforms with which he had been associated in Britain such as generous retirement pensions to get rid of incompetent older clerks and graduated salaries and pension scales to encourage the lower ranks to remain² after they had acquired a little experience.

Stephen was slightly dubious of all these changes coming so soon after the major reorganisation of 1833. But on the whole he supported his old

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1. E.g. Spearman to Stephen, 6 July 1836, with Stephen's memorandum, 21 May 1836, C.O. 54/151, Treasury.
 2. Horton to Glenelg, 1 July 1836, No. 104, C.O. 54/148. For his earlier work on civil service reform, see Kannangara, Ceylon Civil Service, pp. 208-213.

superior. "Although it originates with a mind singularly fertile in schemes for expenditure recommended by the promise of ultimate saving", he wrote to Sir George Grey, "it is yet as far as I can judge well worthy of serious regard". The Colebrooke retrenchments now seemed to Stephen after observing them in practice "unskilful and unsparing" and "more distinguished by parsimony than economy". Horton's plan to bring Ceylon into line with recent British civil service reforms seemed much more justified. Unfortunately, Goderich, who had adopted Colebrooke's suggestions in 1833, had moved to the Treasury and, as chancellor of the exchequer, refused to reverse his earlier decision. The Horton plan was therefore rejected.¹ Only the recommendation that pensions should be increased for those who had served for a long period was carried out.²

It seems clear from what he wrote that Stephen largely agreed with Horton on reforms in the nature and structure of the service. There would be and should be in the near future no considerable displacement of British by Ceylonese civil servants. Viewed in this light, Colebrooke's reforms were bound to appear a reckless blunder. Neither Horton nor Stephen questioned the value of open competition, indeed Stephen strongly supported

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1. Horton to Glenelg, 1 July 1836, No. 104, minutes, drafts & replies, C.O. 54/148.
 2. Spearman to Stephen, 1 Sept. 1837, & Baring to Stephen, 26 Sept. 1837, C.O. 54/158, Treasury. For a further attempt to force the Treasury's hand (the Layard case) see Mackenzie to Glenelg, 3 Jan. 1838, No. 2, minutes, C.O. 54/160; Mackenzie to Glenelg, 17 Oct. 1838, No. 157, minutes, C.O. 54/164; & Spearman to Stephen, 9 May 1838, minutes, C.O. 54/167, Treasury.

the governor in making merit a prime consideration in promotions;¹ but it is clear that both expected the service to remain, at least for some time, predominantly European. If they sought to make the service attractive to Europeans, however, they did not forget the native recruit. Stephen strongly encouraged the governors to promote Ceylonese where 'practicable'.² He also questioned the policy of paying smaller salaries to the native official and, though little was done about this, he seems to have persuaded Glenelg that it was wrong in principle.³ To encourage professionalism and create an esprit de corps, Stephen supported the idea of retaining the top positions in the civil service for personnel with local experience. When the Lords of the Treasury insisted upon using their patronage with regard to customs commissioners by appointing men directly from Britain they received a sharp rebuke from Stephen's pen. The Treasury's method of making appointments, Stephen informed them, "is viewed in the colony with a deep and increasing dissatisfaction with which it may ere long be impossible to contend successfully".⁴

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1. Horton to Glenelg, 14 Oct. 1837, No. 151, minutes, C.O. 54/156. See also Mackenzie to Glenelg, 6 Mar. 1838, No. 45, minute, C.O. 54/161.
 2. Horton to Glenelg, 1 June 1837, No. 81, minute, C.O. 54/154. See also Horton to Glenelg, 31 Aug. 1837, No. 127, minute, C.O. 54/155.
 3. Mackenzie to Glenelg, 7 Mar. 1838, No. 48, minutes, C.O. 54/161.
 4. Horton to Glenelg, 8 July 1837, No. 97, minutes, C.O. 54/155.

Stephen attached great importance to the structure and functioning of the civil service in Ceylon in part because he seems to have felt that the people depended heavily on the local government agent. Since so much of the success of government depended upon them, the standards of the civil service, he stressed, should be high. For this reason he strenuously opposed governor Horton's recommendation that civil servants should be allowed to engage in trade. Horton argued that the civil service reductions in 1833 had been so great that the officials should be allowed to engage in commercial ventures to make up their incomes. Stephen profoundly disagreed. Not only did he consider such a suggestion of questionable legality, but it seemed also highly impolitic. The public had a right to the full-time dedicated service of its civil servants. Business was too distracting and failure would be too humiliating for public officers to bear. Besides, if civil servants engaged in trade their commercial rivals would be suspicious of their official influence. The most Stephen would allow was that civil servants, if they wished to speculate with their savings, could make remittances to Europe.¹ To keep up standards, he was equally insistent that leading officials should not be granted home leave without some pressing reason.² On the other hand, there often were good reasons for getting

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1. Horton to Glenelg, 27 July 1836, minutes, C.O. 54/148; Horton to Glenelg, 9 Dec. 1836, No. 161, minute, C.O. 54/149.
 2. E.g. Mackenzie to Glenelg, 1 Feb. 1838, No. 18, minute, C.O. 54/161.

temporary leaves of absence. Since the old rules did not permit this, he advocated allowing civil servants who found it necessary to take short ¹ leaves at sea.

Stephen's wish to achieve high standards in the civil service even at the cost of the economic development of the colony (Horton felt that few other settlers had the necessary capital) ² was also a further reflection of his economic philosophy. Just as in the case of Trinidad, he was opposed to forcing the pace of colonial economic development. He took exception to all Horton's schemes to use the government's powers to open up the undeveloped areas of Ceylon. To attempt to create artificially a demand for land and a new outlet for capital was to sacrifice the public interest and the general wealth to misguided economic notions. Nor would the cultivators themselves benefit. He minuted: on one such proposal:

"The demand of 5/- per acre will certainly not prevent the land being cultivated, if there is an effective demand for human food, or of any other article which may be grown there, and if there is no such demand, it is not apparent why until it arises, the land shall not be permitted to lie waste. To tempt the poor by low prices of land to settle in districts dangerous to their health as Horton feared they might be would seem ³ objectionable on other grounds than those of mere economy".

Unfortunately for Stephen's plans, when a demand for a Ceylonese product - coffee - did arise in the 1840s, it was not the savings of the frugal small

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1. E.g. Mackenzie to Glenelg, 12 Feb. 1838, No. 24, minute, C.O. 54/161; Spearman to Stephen, 9 May 1838, minute, C.O. 54/167, Treasury.
 2. Horton to Glenelg, 27 July 1836, C.O. 54/148.
 3. Horton to Glenelg, 7 Apr. 1837, No. 63, minute, C.O. 54/154. See also Mackenzie to Glenelg, 2 May 1839, No. 65, minute, C.O. 54/170.

cultivator which supplied the requisite capital but, as Horton suspected,¹ the earnings of the civil servants. Outside the plantations, however, the indigenous population also substantially increased their holdings which² suggests that they were responding to the new economic policies.

Despite these instances of forceful administration, Stephen was never on the whole well informed on Ceylonese questions. He tended to rely heavily for information on his subordinates, especially the leading clerks in the Eastern department. Initially the role of principal adviser on Ceylon was played by George Barrow, the son of the Secretary to the Admiralty, who was subsequently to write a popular history of Ceylon.³ Barrow kept himself well informed of all the intricacies of Ceylonese administration.⁴ He and his successors, Gordon Gairdner and W.H.C. Murdoch, were useful in dealing with financial and economic questions particularly but their influence extended to

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1. I.H. Vanden Driesen, 'The History of Coffee Culture in Ceylon', Ceylon Historical Journal, 1953, III, pp. 41-4; K.M. de Silva, Social Policy and Missionary Organizations in Ceylon, 1840-1855 (London, 1965), pp. 14-15, 297. Mackenzie estimated that there were only fifty settlers with capital excluding civil servants and military officers in 1840: Mackenzie to Glenelg, 29 Jan. 1840, Separate, C.O. 54/177.
 2. I.H. Vanden Driesen, 'Plantation Agriculture and Land-Sales Policy in Ceylon - The First Phase, 1836-1886; Part I', University of Ceylon Review, 1956, xiv, pp. 6-9.
 3. George Barrow, Ceylon, Past and Present (London, 1857); D.M. Young, The Colonial Office, pp. 86, 271.
 4. E.g. Horton to Glenelg, 6 June 1836, No. 94, minutes, C.O. 54/148; Horton to Glenelg, 20 Aug. 1836, No. 117, minutes, C.O. 54/149; Horton to Glenelg, 14 Oct. 1836, No. 51, minutes, C.O. 54/149.

almost every sphere. Frequently, Stephen's dependence on them for¹ information was absolute.

While Wilmot Horton was governor, with his "mind singularly fertile in schemes of expenditure", relations with the Treasury were always difficult. Stephen objected to the Treasury's parsimonious control on a great many² occasions but without success. As a result, he was forced to be stricter³ with Horton in asking for justifications for all financial proposals. This, in turn, undoubtedly strained relations between the governor and the Colonial Office. Horton proved to be a difficult governor to deal with in more than simply his improvidence. His heightened sense of his own importance and his assumed special relationship with the Colonial Office as an ex-under-secretary⁴ made him resent any form of criticism. Stephen could praise him for his⁵ preparation and presentation of ordinances but normally they were at odds.

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1. For Gairdner and Murdoch, see Young, The Colonial Office, pp. 270-2. Examples of their work can be found in Horton to Glenelg, 9 Feb. 1836, No. 30, minutes, C.O. 54/147; Spearman to Stephen, 31 May 1837, minute, C.O. 54/158, Treasury; Mackenzie to Glenelg, 14 Nov. 1838, No. 175, minutes & drafts, C.O. 54/165; Campbell to Stanley, 7 Aug. 1844, No. 129, minutes, C.O. 54/212.
 2. E.g. Horton to Glenelg, 5 Jan. 1836, No. 11, minute, C.O. 54/146.
 3. E.g. Horton to Glenelg, 27 Feb. 1836, No. 49, minute, C.O. 54/147; Horton to Glenelg, 6 June 1836, No. 93, minute, C.O. 54/148. For a later example, Mackenzie to Glenelg, 3 Feb. 1838, No. 17, minute, C.O. 54/161.
 4. E.g. Horton to Glenelg, 23 July 1836, private, C.O. 54/148; Horton (unsigned) to Glenelg, 28 July 1836, Separate, C.O. 54/148.
 5. Horton to Glenelg, 9 Feb. 1836, No. 31, minute, C.O. 54/147.

Often Stephen was driven to great lengths to try and counter some Horton proposal without offending him or to pacify him over some imputed but¹ entirely imaginary personal slight.

It is possible that Horton was suspicious of the new policies which Colebrooke had announced of limiting the governor's authority. On one occasion, for example, Stephen had to challenge the governor's attempt to prevent the removal of the government monopoly in cinnamon trading.² A few months later he was reminding Horton that he should not attempt to interfere in the ordinary commercial transactions of his colony except under exceptional circumstances.³ But their main dispute was over the operation of the executive and legislative councils which had been introduced at Colebrooke's suggestion in 1833. Horton felt that the executive councillors, who were all appointed officials, ought to vote as directed by the governor when they sat, in their dual capacity, in the legislative council. Only in this way could the governor be certain of his control over the legislative council which also contained officials from outside the executive council and unofficial members such as leading merchants and distinguished native-born

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1. E.g. Horton to Glenelg, 12 Apr. 1837, No. 67, C.O. 54/154; Horton to Glenelg, 26 Mar. 1835, No. 17, minute, C.O. 54/147. Horton took the post only because he was in debt: Campbell to Stanley, 4 June 1844, Private, Stephen's minute, 21 Aug. 1844, C.O. 54/211.
 2. Horton to Glenelg, 14 Oct. 1836, No. 51, et seq., minute, C.O. 54/149.
 3. Horton to Glenelg, 18 Jan. 1837, No. 27, minute, C.O. 54/153.

¹
Ceylonese.

Stephen disagreed. For him it was extremely necessary to the efficient working of the new system that every member of the legislature should be free to express his opinion and to vote as he chose on every legislative proposal. Exceptions would be made only for "very extreme cases" where "the main principles upon which the administration of the colony is conducted" were discussed. On such a question the official members must either vote with the governor or be prepared to risk suspension or even expulsion from their offices. The governor, however, would use his powers over recalcitrant officials with the "utmost imaginable reserve". Since there was little danger of a popular vote against the government in Ceylon, unlike colonies with popular assemblies, the local government could "much better sustain the occasional opposition even of its own agents"². To ensure that the system worked smoothly, Stephen took care that the men selected as unofficial members were not likely to be troublesome. In 1838 it also proved necessary to pay one of the native members since he refused to give up his employment unless the government compensated him for his lost salary: but Stephen decided that this did not compromise his independence too much.³ He realised that Horton

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1. Horton to Glenelg, 23 Jan. 1837, Separate, C.O. 54/153.
 2. Stephen's minute, 27 June 1837, on Horton to Glenelg, 23 Jan. 1837, Separate, C.O. 54/153.
 3. Mackenzie to Glenelg, 12 June 1838, No. 88, minute, C.O. 54/163.

would not take kindly to losing his absolute control of the councils and therefore did not press him too much on the point; but he made certain that Horton's successor was immediately informed what the constitutional position ought to be.¹ Subsequently Stephen helped to establish that the governor in his executive capacity would always consult with his executive council and in his legislative capacity would allow the greatest possible freedom of debate and deliberation in the legislative council.²

Stephen from the first showed his usual solicitude and care for the Ceylonese who were unrepresented in the local government.³ But the confidence and energy with which he dealt with Trinidadian freemen or Sierra Leone recaptives has no parallel in Ceylon. It seems likely that he was so impressed by the size of the native population, compared to the number of British officials and settlers, that he felt the administration insecure.⁴ The Kandyan rebellion of 1817-18 seems also to have affected his thinking. In 1837, for example, he said that the British government in Ceylon rested "emphatically on public opinion" and was "in many parts of Ceylon very

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1. Horton to Glenelg, 20 Jan. 1837, No. 62, minute, C.O. 54/153.
 2. Stephen's memorandum, 28 Nov. 1841, point 10, on Anstruther's memorandum, 23 Nov. 1840, C.O. 54/185.
 3. E.g. Horton to Glenelg, 14 Jan. 1837, No. 26, minute, C.O. 54/153; Horton to Glenelg, 3 Oct. 1837, No. 144, minutes, C.O. 54/156.
 4. There were, for example, 24,384 signatures on the address in support of the legislative council: C.O. 54/150.

imperfectly consolidated". This made him suspicious of extensive reforms and more willing to let sleeping dogs lie. In writing to the Treasury to urge them to allow the governor to control the customs officials, his words, even though exaggerated for effect, do show the direction of his thought:

"Accustomed to depend upon the government [the Ceylonese are] to an extent unknown in the other colonial possessions of the crown ...habituated to consider the governor as invested with an authority to which all other public functionaries are subjected and which is and ought to be the object of peculiar respect and deference". 1

This was precisely the opinion which the ultra-conservative Governor Barnes² had used in attacking the Colebrooke-Cameron proposals. Stephen, however, though undoubtedly quite sincere, was using the argument for the more progressive purpose of ensuring cohesion and co-ordination in the local administration.

The fear of popular unrest was an argument which Stephen often used to support many of his liberal gestures. In 1837, for example, he insisted that despite the governor's protests, the Burghers, men of Dutch or Portuguese descent born in the island, had a right, if suitably qualified by office, to sit in the executive council. He offered three reasons for this opinion: the general regulations of government had to be decided without reference to specific individuals; the government considered it desirable to conciliate the Burghers who were an influential class in Ceylon; and, finally, "it would be dangerous even if it were not unjust to exclude them from the honours and

1. Horton to Glenelg, 7 Apr. 1837, No. 64, C.O. 54/154.

2. Mendis, Colebrooke-Cameron Papers, II, pp. 25-27.

emoluments of the public service to which their fellow subjects of European birth are admitted". The secretary of state found this convincing and¹ Stephen's suggestion was implemented.

Horton's successor, Stewart Mackenzie, who was governor from 1837 until 1841, was ultimately judged by the Colonial Office to be even more troublesome than his predecessor. Meeting him in London in 1837, Stephen had initially² formed a good opinion of Mackenzie as a man of practicality and sound sense. Probably as a result, the new governor was well briefed on the problems which would confront him and it was hoped that he would be able to effect some³ judicious reforms. But this confidence had disappeared by the end of Mackenzie's first year in office. In his correspondence with the Colonial Office on which, of course, the success of the administration entirely depended, he proved far more obstinate than Horton. Despite orders to the contrary, he insisted upon writing long, rambling private letters to the⁴ secretary of state on assorted public topics. His mode of expression in speeches and dispatches was far from clear and his presentation of evidence

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1. Horton to Glenelg, 16 June 1837, Separate, minute, C.O. 54/154; Mackenzie to Glenelg, 1 Feb. 1838, No. 18, minute, C.O. 54/161. See also the remark to the Treasury on Horton to Glenelg, 8 July 1837, No. 97, minute, C.O. 54/155.
 2. Horton to Glenelg, 14 Oct. 1836, No. 51, et seq., Stephen's minute 27 Apr. 1837, C.O. 54/149. He, like Horton, took the post because he was in debt: Campbell to Stanley, 4 June 1844, Private, Stephen's minute 21 Aug. 1844, C.O. 54/211.
 3. E.g. Horton to Glenelg, 18 Jan. 1837, No. 28, minute, C.O. 54/153; Horton to Glenelg, 31 Aug. 1837, No. 127, minute, C.O. 54/155.
 4. E.g. Mackenzie to Glenelg, 12 Feb. 1838, Private, minutes, C.O. 54/161; Mackenzie to Glenelg, 1 June 1838, C.O. 54/163.

was occasionally bewildering.¹ He was also totally tactless and lacking in propriety in an office which called for great discretion.²

His personal deficiencies were compounded by political blunders. Like Horton he was prone to indulge in schemes of considerable public expenditure without going through the necessary formalities.³ More commendably but equally embarrassingly for the home government, he tended to sacrifice imperial interests to his own conception of what was best for the colony.⁴ But worst of all, in disgust at the Treasury's parsimony he allowed the civil service to deteriorate very badly.⁵ It was during Mackenzie's administration that the senior civil servants began to devote their energies to coffee planting to the detriment of their official duties. Fortunately for the Colonial Office, his son-in-law, Philip Anstruther, who had held the post of colonial secretary since 1830, proved to be both energetic and able

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1. E.g. Mackenzie to Glenelg, 13 July 1838, No. 115, minutes, C.O. 54/163; Mackenzie to Glenelg, 13 Aug. 1838, No. 130, minutes, C.O. 54/164.
 2. E.g. Mackenzie to Glenelg, 20 Aug. 1838, No. 136, minutes, C.O. 54/164; Mackenzie to Glenelg, 27 June 1838, No. 95, minutes, C.O. 54/163.
 3. E.g. Mackenzie to Glenelg, 3 Feb. 1838, No. 17, minutes, C.O. 54/161; Mackenzie to Glenelg, 14 Feb. 1838, No. 27, minute, C.O. 54/161.
 4. E.g. the dispute over the military in Mackenzie to Glenelg, 6 June 1838, No. 82, minutes, C.O. 54/163; Mackenzie to Glenelg, 19 Sept. 1838, No. 145, minutes, C.O. 54/164; Somerset to Stephen, 16 Nov. 1838, minutes, C.O. 54/167, C. in C.
 5. Anstruther's report, 23 Nov. 1840, C.O. 54/185; Anstruther & Mackenzie to Russell, 6 Apr. 1840, No. 54, C.O. 54/179.

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and he partly compensated for his superior's weaknesses.

The arrival in office of Russell and Vernon Smith in 1839 gave a certain impetus to the consideration of Ceylonese questions. Russell had little sympathy for traditional institutions and ways in Ceylon and he supported policies of cautious westernization, aimed at reforming Ceylonese society.² Vernon Smith, with his experience as joint secretary at the Board of Control for India, also took a special interest and was sometimes referred to in the office, rather flatteringly, as an orientalist.³ But the most important stimulus to action came from Anstruther, the colonial secretary, who arrived in London on leave in 1839 and remained for a year. He was frequently consulted by the office on general questions.⁴ With his unrivalled experience of administration in Ceylon and his great fund of knowledge, Anstruther proved extremely valuable. He was encouraged to proceed gradually from tackling occasional questions submitted to him to setting out in detail his views on the reforms necessary for the future development of the island,

1. de Silva, Social Policy, p. 21 & fn. 3.

2. E.g. his opinion on the adigars: Mackenzie to Normanby, 24 June 1839, No. 47, Russell's minute, 12 Dec. 1839, C.O. 54/171. He baulked at tackling questions of inheritance; Mackenzie to Russell, 14 Mar. 1840, No. 48, Russell's minute, 25 Sept. 1840, C.O. 54/179.

3. For Vernon Smith, see D.N.B., Stephen's memorandum 28 Nov. 1840 on Anstruther to Stephen, 23 Nov. 1840, C.O. 54/185, Anstruther; & Mackenzie to Russell, 9 Dec. 1840, No. 185, minutes, C.O. 54/182.

4. See the minutes on dispatches from C.O. 54/172 onwards. A typical reference is Mackenzie to Russell, 16 Dec. 1839, minutes, C.O. 54/173.

particularly in the legal and administrative fields.¹ His work, in fact, virtually amounted to a one-man commission of investigation and as such his recommendations won more general approbation in the Colonial Office than even those of Colebrooke and Cameron.²

Stephen acted as intermediary between Anstruther and the secretary of state and he may have helped to select many of the general questions which were raised. He had a particular interest, for example, in the legal system; and he had already suggested a plan to initiate in Britain a general amendment of the charter of justice after prior consultations with the Ceylonese judiciary.³ Anstruther agreed with the need for reform and with the idea of local initiative; but he suggested, in addition, that a full revision of Ceylon's civil and criminal codes by a series of local enactments was equally necessary. He pointed out, for example, that the laws governing property inheritance restricted capitalist development. Other civil laws he characterised as medieval.⁴ Stephen agreed with this suggestion to

1. His reports are in C.O. 54/185, Anstruther.

2. Stephen was a staunch supporter: Anstruther to Stephen, 23 Nov. 1840, minutes, C.O. 54/185, Anstruther.

3. E.g. Horton to Glenelg, 13 Jan. 1837, No. 22, minute, C.O. 54/153; Mackenzie to Glenelg, 27 June 1838, No. 95, minute, C.O. 54/163; Mackenzie to Glenelg, 17 Nov. 1838, No. 178, C.O. 54/165.

4. Anstruther's memorandum, 23 Nov. 1840, C.O. 54/185, Anstruther, ff. 88-136.

revise the legal codes and proposed that the penal code which had been produced for India should serve as the starting point for the revision of the criminal law in Ceylon. To amend the civil law was more difficult. Stephen would have suggested employing an able jurist to work for some years on the civil code; but he doubted whether this would be practicable and nothing else seemed adequate. Some more immediate measure was therefore¹ required.

The doubts he had felt and Anstruther confirmed about the Ceylon charter of justice, which Stephen himself had drafted and initially defended, seems to have raised other doubts in Stephen's mind. He began to despair of the policy of anglicising the law and legal practice which had been adopted following Cameron's report. In 1839 he noted that native-born Ceylonese were showing some opposition to governor Mackenzie's proposals to assimilate the laws on property inheritance to those of England. Stephen felt this a conclusive objection: "the best philosophy, as I take it", he advised Russell, "is to consult the habits and to respect the prejudices of those for whom laws are to be made". On certain critical subjects such as property inheritance "habits and prejudice will always be too strong for legislative control". The only possible solution was to employ two legal systems. As a westernizing measure the Roman-Dutch laws on property could be made to apply to all native-born including those of mixed ancestry, and

1. Stephen's memorandum, 28 Nov. 1840, points 11 & 12, on Anstruther's memorandum, 23 Nov. 1840, C.O. 54/185, Anstruther.

the English laws could be used for the British immigrants. There was a precedent for this two-fold division of law, Stephen claimed, in the position of Scottish property owners in England. But Russell was afraid of 'meddling' in such an explosive subject and decided to postpone his decision pending further enquiries.¹

Perhaps under the influence of Anstruther, who was not conspicuously liberal on race questions,² or perhaps through his acquaintance with Macaulay and British administration in India,³ Stephen had become pessimistic about idealistic reforms. He realised that the existence of two legal systems would add another barrier between natives and settlers but, since he saw no real signs of amalgamation, this seemed unimportant:

"Many a generation must pass away before the two populations of Ceylon can be blended into one homogenous mass, or can make any material advance towards an amalgamation. It is impossible to sacrifice the interests of the present times to such remote and doubtful interests".⁴

This doctrine applied not only to the law but to the judiciary. Under pressure from the Colonial Office one native-born candidate, Mr. Staples, had been promoted in the legal service to the point where he qualified for

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1. Mackenzie to Russell, 14 Mar. 1840, No. 50, minutes, C.O. 54/179.
 2. His remarks on "half-castes" are most illuminating in this respect: Anstruther's memorandum, 23 Nov. 1840, C.O. 54/185, Anstruther.
 3. Eric Stokes, The English Utilitarians and India (Oxford, 1959), pp. 191-3, outlines Macaulay's thought.
 4. Mackenzie to Russell, 14 Mar. 1840, No. 50, Stephen's minute, 24 Sept. 1840, C.O. 54/179.

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admission to the bench. This constituted a threat to those who believed in an exclusively European establishment and terrified the governor and two of the leading local civil servants. They declared that Staples was incompetent for high judicial office. Stephen accepted their word unquestioningly and reversed his earlier demonstration of "liberality".²

The experience of having to correct himself in supporting the promotion of a native-born Ceylonese seems also to have made an impression on Stephen. When dealing a few days later with a suggestion for the education of Ceylonese youths in England as a means of qualifying them for the bar, Stephen was decidedly hostile. Such a plan, he said, would awaken hopes which inevitably would be disappointed:

"It appears to me that so long as an artificial and complex system of European law is to be administered in such a country, none but Europeans can be entrusted with such an administration".

For the sake of the Ceylonese themselves, it was "better and more prudent to say at once, and in so many words, that such probably may be the case". His superiors agreed and the plan was vetoed.³ This pessimistic view is in sharp contrast to Macaulay's famous minute on education in India and yet

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1. Horton to Glenelg, 16 June 1837, Separate, minutes, C.O. 54/154.
 2. Mackenzie to Normanby, 5 June 1839, Separate, minutes, C.O. 54/171. He became more critical when it was too late to affect the issue: Campbell to Russell, 18 Aug. 1841, Separate, minute, C.O. 54/189; Campbell to Russell, 15 Nov. 1841, No. 112, minute, C.O. 54/190; Buller to Stephen, 5 June 1841, minute, C.O. 54/194, Buller.
 3. Mackenzie to Russell, 17 Dec. 1839, No. 13, minutes, C.O. 54/173.

the history of the Indian Civil Service in the following fifty years surely¹ supports the accuracy of Stephen's observation.

Many of Anstruther's suggestions which Stephen singled out for special commendation were merely repetitions of some of Colebrooke's proposals which for various reasons had not been implemented in 1833. This was particularly true of economic matters where the system of free trade - in land as well as produce - which Colebrooke had envisaged was still not complete.² In the intervening years Stephen had kept up his campaign to open up trade and he doubtless appreciated the help which Anstruther gave him on this issue.³ On financial questions, too, they were in agreement. One of Stephen's constant complaints had been that the Treasury was impossibly miserly in considering public works expenditure in Ceylon.⁴ As Stephen recognised, this ultimately came back to the fact that the expenditure of the Ceylon government exceeded its income with the result that its financial deficiencies⁵ became a burden on the British Treasury.

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1. H. Woodrow (ed.), Minutes on Education in India (London, 1862), pp. 107-9; L.S.S. O'Malley, The Indian Civil Service (London, 1931), pp. 205-21.
 2. Stephen's memorandum, 28 Nov. 1840, points 2-6, on Anstruther's memorandum, 23 Nov. 1840, C.O. 54/185, Anstruther.
 3. E.g. Horton to Glenelg, 14 Oct. 1836, No. 51, et seq., Stephen's minute, 27 Apr. 1837, C.O. 54/149; Clay to Smith, 31 Oct. 1840, minute, C.O. 54/184, India Board.
 4. E.g. Mackenzie to Glenelg, 21 May 1838, No. 76, minute, C.O. 54/170.
 5. E.g. Mackenzie to Glenelg, 11 Feb. 1839, No. 40, minute, C.O. 54/169.

The solution was clear. Ceylon must balance her budgets by retrenching in whatever way she could. To Stephen, it appeared impossible, after the rigorous economies in the civil service for which Colebrooke was responsible, to retrench further on the public service. Nor was it possible, because of Britain's commitments in India, to reduce the military costs again, though Governor Mackenzie had tried to do so.¹ But, since it could fairly be maintained that the army in Ceylon was an imperial interest from which the colony derived no benefit, Stephen felt that the Treasury should be called upon to assume the burdens of Ceylon's military costs.² If it agreed to do so, a favourable financial balance would allow for schemes of public expenditure to give the colony the civil amenities, especially roads, canals and buildings, which were judged desirable. As his acid comments to the Treasury show, Stephen felt very strongly on this issue. But on matters of imperial expenditure, the Treasury could not be moved.³

Anstruther shared Stephen's concern for many other aspects of Ceylonese administration. In 1840 he presented the Colonial Office with a damning account of the results of the Colebrooke reforms on the civil service. With

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1. E.g. Mackenzie to Russell, 16 Dec. 1839, No. 11, minutes, C.O. 54/173.
 2. Somerset to Stephen, 19 Oct. 1840, minute, C.O. 54/184, C. in C.
 3. E.g. Mackenzie to Glenelg, 11 Feb. 1839, No. 40, minute, C.O. 54/169; Mackenzie to Normanby, 22 Nov. 1839, No. 94, minute, C.O. 54/173. Anstruther felt and Stephen agreed that land sales could provide one source for a public works fund: Stephen's memorandum, 28 Nov. 1840, points 8 & 13, on Anstruther's memorandum, 23 Nov. 1840, C.O. 54/185, Anstruther.

their salaries and prospects diminished, most of the best men, he claimed, had departed for India or elsewhere. Their places in the higher posts had been taken by "half-castes and adventurers", men lacking in education and morality in a service unchecked by public opinion since the masses were ignorant of their rights. Since patronage was still left largely to the governor, these undesirables, who were the only candidates available on the island, had perforce to be appointed to the leading positions. Anstruther did not oppose the suggestion of appointing native-born Ceylonese - on the contrary, he strongly favoured their appointment - but only in small numbers and only after they had received an English education. He attributed the weaknesses in the service to the low pay and lack of pensions, the survival of seniority promotions, and the fact that civil servants were allowed to engage in plantation agriculture despite official orders to the contrary. Like Horton, he felt that the continuance of appointments from England was desirable and advised instituting an examination, for both English and Ceylonese candidates for the services, to weed out incompetents. Successful candidates in England, he suggested, could be distributed by the secretary¹ of state throughout the entire empire as required.

This report seemed to confirm everything that Stephen had maintained about the weaknesses of the Ceylon civil service. The one difference was that Anstruther said little about raising the pay of the offices normally

1. Anstruther's memorandum on the civil service, 23 Nov. 1840, C.O. 54/185, Anstruther, ff. 137-56.

held by Ceylonese whereas Stephen had come to consider this as important.

"The highest salary ever given to a black man in Ceylon", Stephen minuted on an appeal case in 1839, "is such a pittance that no imaginable thrift could raise from it a maintenance for his declining years". Because of the racial prejudice of the local government, prudence as well as equity demanded that the imperial authorities should attempt to help the native-born¹ civil servant. Even a trifling claim was "important in principle as indeed everything is which involves the claims of the natives to have their interests carefully weighed and impartially protected"². Individual cases could be given consideration by particular representations even though the Treasury might remain unconvinced of the need for a general reform of the service.³

Apart from this single instance where Anstruther was silent, he and Stephen were in almost total agreement. Stephen had constantly denounced the low salaries for senior posts in the civil service and their attendant evil effects on the work performed.⁴ He had also opposed seniority promotions at the expense of merit and the involvement of civil servants in

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1. E.g. Mackenzie to Glenelg, 9 Apr. 1839, No. 47, minutes, C.O. 54/170.
 2. Mackenzie to Russell, 14 Dec. 1839, No. 5, minutes, C.O. 54/173.
 3. E.g. Mackenzie to Russell, 7 Jan. 1840, No. 2, minutes, C.O. 54/177; Mackenzie to Russell, 5 Feb. 1841, No. 10, minutes, C.O. 54/187; Mackenzie to Russell, 31 Mar. 1841, No. 51, minutes, C.O. 54/187.
 4. E.g. Mackenzie to Russell, 6 Apr. 1840, No. 54, minutes, C.O. 54/179.

business occupations such as plantations. Anstruther's report on the civil service proved an excellent opportunity for Stephen to push for a decision. As he told Vernon Smith:

"I can only say that I cordially subscribe to every recommendation it contains, and earnestly hope that Lord John Russell may see fit to execute them so far as it rests with himself to do so, and to recommend to the Treasury the execution of that part of them which falls within their province". 1

Vernon Smith and Russell, under pressure of work, both insisted on further delays; but they at least decided to inform Sir Colin Campbell, who had² been chosen to replace Mackenzie as governor, of the new proposals.

The most explosive topic which Anstruther touched on in his reports was that of religion. His advice came at a particularly crucial time, just as the campaigns against the special privileges of the Church of England in Ceylon and against the British government's connection with Buddhism in the Island were beginning to have an effect.³ Neither subject had passed unnoticed by Stephen at the Colonial Office before 1840. As far back as 1837, the office had issued directions to the Ceylon governor to encourage missionary schemes for the "moral and religious education of the people of Ceylon". At the same time it was pointed out that the Anglican Establishment

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1. Stephen's memorandum, 28 Nov. 1840, point 18, on Anstruther's memorandum, 23 Nov. 1840, C.O. 54/185, Anstruther.
 2. Minutes by V. Smith on Stephen's memorandum, 28 Nov. 1840, minutes by Russell, 28 Jan. 1841, 10 Feb. 1841, & 8 Apr. 1841; Stephen, 8 Feb. 1841, 24 Mar. 1841 & 18 May 1841; & V. Smith, 28 Mar. 1841, on Anstruther's memorandum, 23 Nov. 1840, C.O. 54/185, Anstruther.
 3. de Silva, Social Policy, pp. 29-39; 64-70.

was greatly over-endowed if judged by the number of members in communion with it.¹ This fact certainly influenced the way that Stephen dealt with religious questions. Every proposal for special extra expenditure on the Established Church was met by a refusal or a demand for a corresponding retrenchment.² Because of the political power of ecclesiastical groups, however, and perhaps because of his own commitments on the subject, Stephen was normally content to leave church questions to be settled by the parliamentary under-secretary.³ But he could seldom resist a comment on the contrast between "the general poverty prevailing amongst the natives, and the comparative wealth of the European inhabitants" whenever proposals were made to increase "the very large outlay already incurred for the support of the Established Church of England".⁴

Stephen's ill-concealed feelings on the iniquities of the Established Church in Ceylon finally boiled over when he examined a case involving the

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1. Glenelg to Mackenzie, 2 Oct. 1837, No. 18, C.O. 55/79; de Silva, Social Policy, pp. 29-30.
 2. E.g. Horton to Glenelg, 1 Feb. 1837, No. 42, minutes, C.O. 54/154; Mackenzie to Glenelg, 12 Mar. 1838, No. 53, minute, C.O. 54/161.
 3. E.g. Horton to Grey, 28 July 1838, minute, C.O. 54/168, Horton; Mackenzie to Glenelg, 3 May 1839, No. 67, minutes, C.O. 54/170; Mackenzie to Normanby, 14 Sept. 1839, No. 52, minute, C.O. 54/172.
 4. Mackenzie to Glenelg, 11 Feb. 1839, No. 38, minute, C.O. 54/169. See also Mackenzie to Normanby, 28 June 1839, No. 8, minute, C.O. 54/171.

Ven. J. Glennie, the archdeacon of Ceylon. Glennie had conceived a hatred for governor Mackenzie's attempts to broaden the educational structure of Ceylon (by ending the dominance of the Church of England on the government teaching committee) and to institute an enquiry into the work which the Anglican clergy were performing. Glennie convinced his son, Owen, an Anglican clergyman who ran the newspaper, The Ceylon Herald, to undertake a press campaign villifying the governor's work. When the attacks were reported to the Colonial Office, Stephen was outraged. With all the passion of a fellow-sufferer, he declared:

"The propagation of rancorous and uncharitable feelings is, I take it, quite as great a corruption of good morals as the patronage of any of the grosser forms of sensual intemperance although such may not be the prevalent opinion".

Had it not been that he believed the civil government had lost the power to dismiss a cleric, he would undoubtedly have recommended a dismissal. Instead he suggested that the younger Glennie should be reported to his superior, the Bishop of Madras.¹ This proved quite ineffective since the governor bungled the charge and the bishop unhesitatingly took the side of his clergyman. Stephen, in despair, then asked to be relieved of the need to give advice² on the subject.³ Thereafter, he washed his hands of the whole question.

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1. Mackenzie to Normanby, 4 June 1839, Private, minute, C.O. 54/171.
 2. Mackenzie to Russell, 9 Dec. 1839, Separate, minutes, C.O. 54/173.
 3. Mackenzie to Russell, 17 Dec. 1839, No. 15, minutes, C.O. 54/173;
Mackenzie to Russell, 29 Jan. 1840, No. 15, minutes, C.O. 54/177;
Anstruther's memorandum, 24 Feb. 1840, minute, C.O. 54/185, Anstruther.

This fit of petulance reflected Stephen's deep distress at the contrast between the overendowed and apathetic Established Church, surviving on a forced public levee, and the underpaid and energetic missionary societies which were on their own undertaking considerable sacrifices in order to keep their work going.¹ Since he was notoriously a supporter of the mission movement, he refrained from advising his superiors on all missionary questions.² But, angered by his brush with the local clergy, he did not feel equally obliged to remain silent on what he considered to be the grossly extravagant public expenditure on maintaining the Church of England.³ Russell agreed that something should be done and the governor was asked to re-investigate the subject with a view to making reductions.⁴ This was not enough for Stephen. In 1840, undoubtedly as a measure of reform, he took up a suggestion originating with the Society for the Propagation of the Gospel, and advised that Ceylon should be made a separate see. Russell promised to give this suggestion further consideration;⁵ but still Stephen fretted about

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1. E.g. Stephen's minutes on Mackenzie to Glenelg, 7 Mar. 1838, No. 48, C.O. 54/161 and Mackenzie to Normanby, 11 Sept. 1839, No. 50, C.O. 54/172. Notice the heavy irony in the remark "to attribute anything short of perfection to our episcopal system is exceedingly hazardous". Mackenzie to Russell, 9 Dec. 1839, Separate, Stephen's minute 3 Mar. 1840, C.O. 54/173.
 2. E.g. Mackenzie to Russell, 30 Jan. 1840, No. 16, minute, C.O. 54/177.
 3. Mackenzie to Russell, 5 Feb. 1840, Private, minutes & memoranda, C.O. 54/178; Mackenzie to Russell, 8 July 1840, No. 111, minute, C.O. 54/180. See also Bishop of Madras to Russell, 13 Jan. 1840, & 15 Aug. 1840, minutes, C.O. 54/186, Bishop of Madras.
 4. de Silva, Social Policy, p. 35.
 5. Campbell to Smith, 9 June 1840, minute, C.O. 54/184, S.P.G.

the future. "Ecclesiastical reformation" seemed impossible "unless there should appear amongst us bishops and archbishops ready to sacrifice the temporal interest of the clerical order to the spiritual interests of the Church, a moral martyrdom which few men have ever had enough energy to undergo".¹

The crisis in the Church of England in Ceylon was 'small beer' compared to the second religious topic which Anstruther examined. What he asked for was virtually a revolution in the relationship between the state and Buddhism. He had three main suggestions: he wanted the lands held in mortmain for the support of Buddhist temples to be opened up for agriculture; he wished the colonial government to withdraw from all connections with the "idolatrous" Buddhist ceremonies; and he advised making the income from temple lands available for Christian education.² Since 1815, when the British promised to maintain and protect the "rites, ministers and places of worship" of the Buddhist religion in Kandy, the official policy had been to carry out to the letter the obligations which this implied. Anstruther in fact was associating himself with a quite new missionary campaign, inspired by contemporary developments in India, which sought to sever the connection between the government and Buddhism.³

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1. Mackenzie to Russell, 8 July 1840, No. 111, minutes, C.O. 54/180.
 2. Anstruther's memorandum, 23 Nov. 1840, C.O. 54/185, Anstruther.
 3. de Silva, Social Policy, pp. 69-73.

Stephen would not endorse Anstruther's suggestion. The use of temple lands for agriculture was an important subject but of such "extreme delicacy" that it could not be re-considered without an on-the-spot investigation. The other two suggestions appeared "such arduous questions" that Stephen felt unable to "hazard even a conjecture upon them". He preferred to leave the whole problem to Vernon Smith whose knowledge of India might be of assistance. But Vernon Smith, though fully aware of the current missionary agitation in India, was not prepared to meddle without public support and the matter was, for the moment, dropped.¹ Stephen's timidity and Vernon Smith's complacency lasted only four months. The Ceylonese missionary campaign, which had begun in 1839 with the publication of a pamphlet by the Rev. R. Spence-Hardy entitled "The British Government and the Idolatry of Ceylon", eventually conquered the Church Missionary Society and entered the correspondence of the Colonial Office in March 1841. Thereafter Stephen² was to ensure that it would not be forgotten.

At the start of his administration of the Colonial Office, Lord Stanley was faced with the problems which Russell had tackled without finding a solution, especially the reforms in the civil service, the amendments to the charter of justice and the questions of church-state relations in Ceylon.

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1. Stephen's memorandum, 28 Nov. 1840, points 14 & 16, with V. Smith's minutes on Anstruther's memorandum, 23 Nov. 1840, C.O. 54/185, Anstruther.
 2. de Silva, Social Policy, pp. 70-76; Coates to V. Smith, correspondence, C.O. 54/193, C.M.S.

Since Stephen was the chief adviser to the in-coming secretary of state, he was in a position to influence his superiors on those questions where he was himself well-informed and held strong opinions. But, in fact, there is no evidence that he immediately attempted to convert Stanley to his point of view. On the contrary, there are cases where Stephen reversed his opinion, apparently in the hope of attracting the sympathy and attention of his superior. One of the striking differences between his work for Russell and Stanley is that Stephen after 1841 began to write rather long, philosophical or theoretical disquisitions on many problems rather than simply offer straightforward advice. These idiosyncratic minutes, judged by their content, would seem designed to demonstrate the non-political, technical nature of the permanent under-secretary's work while producing conclusions which his superior might find congenial.

Two illustrations of this changing technique and attitude can be found from the first few months of Stanley's arrival in the office. Up to 1841 Stephen had written consistently in impeccable whiggish terms on the virtues of capitalism, the division of labour in economic life and of social progress through the natural operation of economic forces. His antipathy to the concept of 'artificial' colonial economic development was partly a reflection of this faith.¹ Writing for Stanley late in 1841 about Ceylon's rising population as a consequence of its growing economic prosperity, Stephen

1. E.g. Mackenzie to Russell, 2 May 1839, No. 65, minute, C.O. 54/170.

expressed his viewpoint rather differently. The private development of European plantations was lowering the wages of the masses and could not possibly be construed as a general benefit to society:

"a comparatively poor society where manual labour is dear, is usually more happy, more virtuous, and more powerful than a comparatively wealthy society where such labour is cheap, for in that case the wealth is concentrated, and not diffused; and so are the enjoyments which wealth procures, and so is the conservative spirit and the contentment which thrive only with the prosperous". 1

In other words, social stability and comparative economic equality were preferred to even private economic development in order to strengthen the forces of conservatism.

The change is most obvious in the case of the military estimates.

With complete consistency before 1841, Stephen maintained that Ceylon needed a public works programme which it was denied through the Treasury's parsimony and by having to pay for a military force from which it derived no benefit. As he wrote in November 1840:

"There is no other colony except Malta and Gibraltar which contributes anything to its own military defence, except that here and there, as in Jamaica, local allowances are made from the colony to indemnify the troops against the increased expense of living". 2

In January 1842 he had changed his mind:

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1. Campbell to Russell, 9 Aug. 1841, No. 53, Stephen's memorandum, 16 Oct. 1841, C.O. 54/189.
 2. Stephen's memorandum, 28 Nov. 1841, point 8, on Anstruther's memorandum, 23 Nov. 1840, C.O. 54/185.

"The Treasury are or have been inexorable on the question of military contributions. I cannot venture to say that they are wrong. Ceylon is not a petty colony, but a considerable state with a million and a half of inhabitants and may perhaps therefore be fairly called on to contribute to its military defence as all our larger colonies do - Jamaica, for example, by direct contribution, and British North America by maintaining a large militia". 1

Since Ceylon's population figures were not unknown to the Colonial Office before 1841, it is very unlikely that the increase between 1840 and 1841 could have counted as much in his calculations as this suggests.² Nor was he unfamiliar in 1840 with the improving state of the Ceylon revenue though this might still have affected his thinking.³ And from his continuing bitter remarks about the Treasury's stanglehold in Ceylon after 1841, it seems clear that his previous criticisms still obtained.⁴ The example of Jamaica which he quotes twice refers to the same fact presented in a different light so that he was not in possession of any new evidence on this point. The only important change which had taken place, in fact, was that Stanley, a believer in retrenchment and social conservatism, had replaced the more dynamic Russell as secretary of state. Stephen, who knew that the Treasury

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1. Campbell to Stanley, 22 Nov. 1841, No. 11, minute, C.O. 54/190.
 2. He mentioned the large population specifically as an important factor in 1834: Stephen to Hay, 9 May 1834, C.O. 54/138, Stephen.
 3. It is mentioned in the memorandum 28 Nov. 1841 on Anstruther's memorandum 23 Nov. 1840, C.O. 54/185. Stephen, in fact, continued to protect Ceylon from purely imperial expenditure: e.g. Hampton to Stanley, 5 July 1844, C.O. 54/214, Royal Society.
 4. E.g. Trevelyan to Stephen, 2 July 1841, minute, C.O. 54/194, Treasury; Campbell to Stanley, 22 June 1843, No. 115, minute, C.O. 54/204.

would not give way in the least, made the best he could of the situation¹ by presenting himself as its supporter.

To say that Stephen adapted his usual technique and tried to accommodate Stanley is not to say that he ceased to have influence or personal opinions. On the three main topics which Stanley attempted to tackle - the civil service, the church and the charter of justice - Stephen's aid was a crucial factor. The major difference was that Stephen no longer performed everything by himself but simply gave advice and criticised work which was done by others. As a result his influence was exerted in different ways and the extent to which his advice was adopted varied considerably with each question.

In examining the governor's report on the state of Ceylon in 1840, Stephen noted particularly the corrupt state of the civil service. Reminding Stanley that Anstruther had reported on the subject at great length, he expressed the opinion that the governors' misuse of their patronage and the narrow range of the choice available to them appeared to be the root causes of the evil. But Stephen made no personal recommendation for action. This analytical approach, if it was meant to appeal to his superior, worked perfectly. Stanley minuted on Stephen's comments: "I shall beg for some

1. It is always possible that Stephen simply changed his mind. In the course of Peel's prime ministership from 1842-45 he does seem to have given up, to some extent, his support for the Whigs and to have become something of a Peelite in politics. This is clear from his diary for 1846. He was certainly also more inconsistent after 1841 partly through lack of knowledge. When he went on holiday he minuted only important documents, leaving the rest to his subordinates. As a result he began to lose touch with the details: e.g. in 1842 he takes August off and subsequently minutes only when asked to do so, as in Nos. 83 & 90, C.O. 54/197.

conversation with Mr. Stephen on the whole state of the case".¹ Perhaps
 as a result, Stanley apparently resolved to undertake a full re-consideration²
 of the state of the Ceylon civil service.

Having attracted his superior to the notion of reform, Stephen
 proceeded to supply him very subtly with suggestions. He did this by
 throwing out proposals for radical reforms when supposedly dealing with
 quite different topics. Using evidence produced by the governor to justify
 expenditure on sick leaves, for example, he argued that reductions in the
 civil service seemed to have gone too far and "some permanent increase of³
 the whole disposable force is necessary". He similarly diverted complaints
 about judicial administration by blaming the bad service morale caused by
 reduced salaries which contrasted unfavourably with those offered by the
 East India Company:

"The consequence has been that all our officers (the
 clergy not excepted) have betaken themselves to sugar
 and coffee planting: and find themselves with little
 leisure for their duties and in no friendly relation
 to the natives".⁴

Whenever an opportunity presented itself, Stephen proceeded to hammer these⁵
 points home in successive minutes.

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1. Campbell to Russell, 9 Aug. 1841, No. 53, minute, C.O. 54/189.
 2. Campbell to Stanley, 5 Feb. 1842, No. 22, Hope's minute, C.O. 54/196.
 3. Campbell to Stanley, 5 Feb. 1842, No. 22, Stephen's minute, C.O. 54/196.
 4. Campbell to Stanley, 18 Apr. 1842, No. 56, Stephen's minute, C.O. 54/196.
 5. E.g. Campbell to Stanley, 28 May 1842, No. 83, minute, C.O. 54/197;
 Campbell to Stanley, 4 June 1842, No. 91, minute, C.O. 54/197; Campbell
 to Stanley, 20 Oct. 1842, No. 168, minute, C.O. 54/199.

Indirect persuasion could be powerful but Stephen did not neglect a frontal assault where this seemed permissible. He was, for example, particularly insistent that high standards should be continually cultivated. On those grounds he successfully challenged the governor's proposal to relax the rule which required senior officers to learn native languages. Characteristically in doing so he offered another suggestion for reform:

"I would announce that great proficiency in this kind of learning [native languages] should not pass without reward sooner or later in the way of promotion". 1

This was not the only instance. While Stanley was still gathering evidence and preparing his plan of reform,² Stephen received a private letter from Anstruther on the weaknesses in the civil service. Though officially deploring Anstruther's failure to use official channels for his correspondence, Stephen nonetheless registered the letter and sent it to Stanley for his³ inspection.

In the summer of 1844 to assist Stanley to find some solution, Stephen was required to present a memorandum on the civil service question. In this, his first piece of direct advice, Stephen again blamed the weaknesses of the service on the misuse of its patronage. The East India Company, he claimed, had a wide choice whereas in Ceylon Colebrooke had insisted upon local appointments, so that the governor was largely limited to a tiny number of undesirable immigrants. The best solution was to send out from

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1. Campbell to Stanley, 23 Dec. 1842, No. 217, minute, C.O. 54/199.
 2. Campbell to Stanley, 19 Apr. 1843, No. 87, Murdoch's minute, C.O. 54/209.
 3. Anstruther to Stephen, 23 Nov. 1843, minutes, C.O. 54/209, Anstruther.

Britain all civil service candidates and all junior officers, leaving the¹ local government to decide what particular place each man ought to fill. In a word, he wished to see the old exclusive civil service restored and patronage revert to Britain.

When Stanley's drafts were completed they were sent informally to Stephen for comment. They included new provisions on efficiency (salaries were to be raised, officials were to be required to devote their full attention to their duties, and exams were to be instituted for new clerks) and on promotion (offices above the third clerical class were to be awarded on the basis of merit alone). Stephen did not feel able to object to these suggestions since they obviously went some way to meet his earlier ideas. But he decided to keep one step ahead. He advised turning over the whole question of a general civil service reform to a new governor invested with strong powers and specially chosen for his ability and capacity to take² decisions on the spot. In fact he may well have felt that the plans were inadequate especially on salary increases and on the attempts to prevent³ civil servants from engaging in coffee planting. A governor with local knowledge and absolute powers could adjust the reforms as required. Stephen obviously had Lord Durham as well as Sir Charles Metcalfe in mind. He had achieved his aim to see the reform of the service adopted by a secretary of

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1. Memorandum by Stephen, 9 June 1844, C.O. 54/222, Memoranda on civil service.
 2. Campbell to Stanley, 4 June 1844, Private, minute, C.O. 54/211.
 3. Langslow to Stanley, 17 Sept. 1844, minute, C.O. 54/215, Langslow.

state; but by 1844 even this seemed inadequate.

Stephen's disillusionment with reforms made in Europe was a characteristic feature of his later policy in Ceylon. It is equally well illustrated by his views on the charter of justice. In the course of his years at the Colonial Office Stephen wrote no less than ten charters of justice for different colonies and only the Ceylonese code proved a failure. From its first promulgation, the Ceylon charter had been continually criticised and amendments demanded. Russell, when secretary of state, decided to submit all the proposals (including those by Anstruther) to one Mr. Empson, Professor of Law at Haileybury College. Empson's report was then sent to Ceylon where it was commented on by the leading legal figures. Eventually, in 1842, Stephen was asked to comment on the resultant morasse of collected¹ papers on the subject.

Stephen blamed the failure on two main causes, "ignorance of Asiatic usages and character" and the fact that the charter was "based on speculations (chiefly those of Bentham)" which Cameron had adopted in his report in 1831. Though the speculations were profound, subtle and sensible, "the theory was spun somewhat too finely and...had the fault of all laws wrought out in the cabinet without being properly winnowed by public debate". Stephen's solution was as simple as it was radical:

1. See the volume of correspondence on the charter of justice, C.O. 54/191.

"My own full belief is that unless the requisite amendments to the charter be made at Ceylon itself they never can be made effectually. There are no doubt great objections to local legislation in such a case as this. Prejudices, and selfish interests, and feelings of caste, and the rivalry of different classes of Europeans, are all fertile sources of error. But the most certain and abundant of all such sources, that is ignorance of the place and the people, is stopped up. If they do not frame a very wise or equitable law, they will at least, make a very practicable one".¹

There were some obvious technical legal difficulties in overriding imperial legislation in this way, but Stephen felt that they could be overcome by using a special procedure for confirming the local laws. Other more minor objections he discounted entirely. The fear that the checks and balances in the constitution might be overthrown in favour of a strong executive, he disproved. In the West Indian and British North American colonies local legislative initiative had not destroyed the powers of the legislature or judiciary. Moreover, autocracy could no longer be regarded as a real danger in Ceylon since there were other checks in that unofficial members sat on the Legislative Council, a free press gave voice to a section of public opinion and the political consciousness² of the population was continually increasing. Since he was on very firm ground on legal questions Stephen could afford to be peremptory with his chief. Stanley was warned that unless he agreed to the main suggestion, he could expect no help from his permanent under-secretary on the subject.³ The point struck home.

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1. Stephen's memorandum to Hope, 20 Jan. 1842, after Campbell to Stanley, 22 Nov. 1841, No. 3, C.O. 54/191.
 2. Stephen's draft reply, 21 Feb. 1842, after correspondence on Campbell to Stanley, 22 Nov. 1841, No. 3, C.O. 54/191.
 3. Note the last sentence in Stephen's memorandum to Hope, 20 Jan. 1842, after Campbell to Stanley, 22 Nov. 1841, No. 3, C.O. 54/191.

Stanley professed to "see no possible mode of bringing this question to a¹ conclusion except that suggested by Mr. Stephen".

The decision to allow the local government to settle part of its constitution, even though its proposals¹ were still subject to an imperial veto, meant an important break with the past. Stephen claimed that it² reversed the tradition of the preceding 35 years. Certainly it marks a stage in the process by which the crown colonies achieved their legislative autonomy in the 19th century.³ The decisiveness of the change was illustrated within a few months of Stephen's first report. Dealing with a request from the governor for guidance in the event of disagreement on constitutional reform, Stephen suggested that changes in judicial administration should take effect immediately without waiting for the secretary of state's approval. He initially laid down certain conditions:

"a local law in amendment of the charter might take effect immediately if it were a law passed unanimously by the legislature, and if the judges should unanimously certify in favour of the immediate operation of it".⁴

Within a year, however, as the judges attempted to frustrate the governor and council by disapproving of every law they made, Stephen advised that both

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1. Stanley's minute, n.d., on Stephen's memorandum to Hope, 20 Jan. 1842, after Campbell to Stanley, 22 Nov. 1841, No. 3, C.O. 54/191.
 2. Stephen to Hope, 21 Feb. 1842, after Campbell to Stanley, 22 Nov. 1841, No. 3, C.O. 54/191.
 3. Stephen's respect for colonial autonomy is seen in Rogers to Grey, 24 Sept. 1846, minute, C.O. 323/61, f. 424.
 4. Campbell to Stanley, 20 Oct. 1842, No. 170, minute, C.O. 54/199.

safeguards should be abandoned and that all legislation on the charter should be put on an identical basis with any other laws. This suggestion was¹ adopted.

The third main subject which Stanley tackled under Stephen's influence was the reconsideration of the state's relationship with Buddhism. Stephen adopted a strong line on the Buddhist question in 1841 though only four months before he had refused to hazard even a conjecture on the subject. He had clearly realised neither the extent to which the British government was committed to actively supporting Buddhism nor that missionaries might feel that the support given by the state to Buddhism constituted a barrier to² their attempts at proselytization. His consistent policy before 1840 had been to encourage the churches to engage in missionary work and he was therefore obliged to help them. Although the object of his attack - the Buddhist-state connection in Ceylon - was new, he had for many years opposed the official sanctioning of caste, on the grounds that this associated the state with alien religious practices.³ There is, therefore, a consistency in his approach which has not always been appreciated and which was in no way

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1. Campbell to Stanley, 20 Oct. 1843, Private, minute, C.O. 54/205; Campbell to Stanley, 23 Nov. 1843, No. 212, minutes, followed by memoranda and minutes on Nos. 112 & 267, C.O. 54/206; Stephen to Hope, 20 May 1844, C.O. 54/214, Council.
 2. Stephen's minute 24 Mar. 1841, after Coates to V. Smith, 23 Mar. 1841, C.O. 54/193, C.M.S.
 3. Stephen to Twiss, 9 Dec. 1828, C.O. 323/45, f. 298.

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related to missionary pressures.

In his later life Stephen became no more tolerant on religious questions. On the contrary, his feelings were obviously much more intense in 1841 than even a few years earlier. His remark to Russell makes this clear:

"No Christian government should countenance or actively participate in an idolatry which we are all agreed in regarding as not merely absurd but positively criminal".

Even if state policy did not require this, divine law did. The argument that Buddhism had been guaranteed protection by the British in the Kandyan Convention of 1815, was also not acceptable. The Buddhists were guaranteed only "absolute toleration" and the right to practice their religion freely.² Under Stanley, Stephen kept up his direct pressure on his superiors and appears early to have converted them to his point of view.³ Stanley was not always prepared to go as far as Stephen; but he accepted the argument that Buddhism was idolatrous and therefore must be disestablished by the British government in Ceylon.⁴

Stephen's intolerance of Buddhism contrasts markedly with his tolerance of non-Anglican Christian denominations and indeed with his constant support

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1. He used the same arguments about Roman Catholicism in Canada: Knaplund, James Stephen, p. 142.
 2. Stephen's minutes, 24 Mar. 1841 & 30 Mar. 1841 after Coates to V. Smith, 23 Mar. 1841, C.O. 54/193, C.M.S.
 3. E.g. Stephen assumed Stanley's support on an ordinance to restrain land gifts for religious purposes: Campbell to Stanley, 5 June 1843, No. 106, minute, C.O. 54/204.
 4. E.g. Campbell to Stanley, 24 Jan. 1844, No. 14, minutes, C.O. 54/210; Campbell to Stanley, 8 May 1845, No. 96, minutes, C.O. 54/217.

for the attempts to prevent Christian ecclesiastical expenses being charged to a non-Christian public.¹ But in offering advice to Stanley on all religious topics except the disestablishment of Buddhism, he refrained from insisting on his own opinions.² Some of his severest strictures were still reserved for the Church of England in Ceylon. But although he condemned in strong terms the sinecurism and absenteeism which he claimed was characteristic, he refused, except by implication, to recommend a course of action for Stanley to follow.³ Nonetheless he frequently suggested in connection with other subjects that ecclesiastical reform could only be undertaken successfully from within the church and that to ensure episcopal control was the most effective method of proceeding.⁴ This was the suggestion which was finally adopted. With the blessing of the archbishop of Canterbury, Ceylon was elevated into an episcopal see in 1844 and its incompetent archdeacon was pensioned off.⁵

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1. E.g. Campbell to Stanley, 14 Mar. 1843, No. 56, minute, C.O. 54/203; Campbell to Stanley, 7 Mar. 1845, No. 47, minute, C.O. 54/216. Stephen was also extremely tolerant of the Moslems in Sierra Leone: See minute, 18 Mar. 1840, on Doherty to Russell, 4 Dec. 1839, No. 77, C.O. 267/154.
 2. Campbell to Stanley, 15 Mar. 1843, No. 59, minute, C.O. 54/203; Campbell to Stanley, 8 Aug. 1844, No. 131, minute, C.O. 54/212.
 3. Campbell to Stanley, 16 Mar. 1843, No. 60, minute, C.O. 54/203.
 4. E.g. Campbell to Stanley, 22 June 1843, No. 115, minute, C.O. 54/204; Campbell to Stanley, 18 Aug. 1843, No. 154, minute, C.O. 54/204.
 5. Archbishop of Canterbury to Stanley, 20 Aug. 1843, minute, C.O. 54/209, Canterbury; Campbell to Stanley, 18 Apr. 1844, No. 73, minute, C.O. 54/211.

His contact with Buddhism proved to be too great a strain for Stephen's liberalism. He could agree that Buddhists were entitled to enjoy full civil and political rights but he could not see that there was anything in the Buddhist faith which might be of value or interest. Indeed he was highly sceptical of the intelligence as well as of the sincerity of a man who, given the choice between Christianity and Buddhism, would choose the latter:

"Christianity is the only religion ever known among men in strict alliance with philosophy, civilization and human advancement in all arts and sciences". 1

The equating of Christianity with western civilization naturally consigned Buddhism to a level with oriental technological, social and political backwardness. But this belief had two sides. In Stephen's attitude there is more than a trace of the idea that western civilization could only be achieved through the adoption of the progressive religion of Christianity. To destroy Buddhism was to open the way for the introduction of the superior civilisation of the west.

Stephen had no hesitation in being both blunt and direct with Gladstone. The subtleties pervading his minutes to Stanley immediately disappeared when Gladstone took over.² But, of course, Gladstone did not allow Stephen to have his own way in Ceylon any more than elsewhere. As usual he got down to a detailed and painstaking examination of every problem and adopted

1. Campbell to Stanley, 20 Nov. 1844, No. 192, minute, C.O. 54/213.

2. E.g. Campbell to Stanley, 24 Nov. 1845, No. 241, minutes, C.O. 54/219.

scrupulously fair-minded compromises on every topic which he had time to decide. In attempting to reform the civil service, for example, Gladstone insisted that Stanley's policies be implemented initially and then spent so long examining the question that he was forced to leave the detailed application of the new plans to his successor. Stephen urged him to allow the governor to settle each question on his own initiative though in consultation with the executive council; but Gladstone felt unable to agree until he had¹ considered the civil service reforms fully. Similarly Stephen advised Gladstone to institute an apprenticeship scheme to examine new candidates on the spot rather than rely on the written examination, which Stanley had recommended, but Gladstone repudiated his advice and insisted on using the² East India Company's examination. His love of compromise made Gladstone more sympathetic to those civil servants who had taken up plantation agriculture and he agreed, to Stephen's obvious distress, to waive Stanley's absolute prohibition on their activities provided the governor felt their³ official work did not suffer as a result.

The most bitter subject of disagreement between Stephen and Gladstone was the disestablishment of Buddhism. Stephen could perhaps have hoped

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1. Campbell to Stanley, 16 Oct. 1845, No. 208, minutes, C.O. 54/219;
Campbell to Stanley, 3 Nov. 1845, No. 224, minutes, C.O. 54/219.
 2. Campbell to Stanley, 5 Nov. 1845, No. 226, minutes, C.O. 54/219.
 3. Campbell to Stanley, 16 Dec. 1845, Private, minutes, C.O. 54/219.

from a man with Gladstone's well-known views as a supporter of the Church to find in him a sympathiser in the struggle against Buddhism. If he did, he was not entirely disappointed. Gladstone agreed in theory that there was an obvious need to dissociate the Ceylon government from its idolatrous Buddhist connection. But Gladstone again wanted to compromise. It was first necessary, he thought, to provide Buddhism with a central structure, with a kind of church hierarchy, before removing the support of the state. The Buddhists deserved to be left no worse off than before the British connection was assumed.¹ This was a policy with exactly the same fault as Stephen's - it assumed that Buddhism was analagous to a Christian church and so could survive without its state connection. The creation of a Buddhist hierarchy, which Gladstone wished to accomplish as an administrative reorganisation, had in fact baffled all Buddhist leaders for centuries. It was not this objection which concerned Stephen, however, since he felt these difficulties were not a product of British rule and that the British government was not responsible for solving them. His fear was that the government's attempt to create a Buddhist hierarchy would result in producing a kind of Buddhist Papacy to which future Ceylon governments would have to defer.²

Gladstone left office before his plans for Ceylon had matured. His

1. de Silva, Social Policy, pp. 93-97.

2. Campbell to Stanley, 7 Feb. 1846, No. 37, minutes, C.O. 54/223.

successor, Grey, in restoring Stephen to his preeminent place as chief adviser, inevitably altered the nature of Ceylonese administration. This was strikingly evident in every field. The vacillation and ambiguity which characterised Gladstone's policies on civil service reform, church government, Buddhism and legal reform evaporated, to be replaced by the forceful policies which Stephen had consistently maintained on these topics. On these and other subjects, reliance on local administrative or legislative initiative, which Stephen had favoured under Stanley and Gladstone, was adopted as a policy by Grey. The occasions when Stephen advised the imperial authorities to coerce the colony were very few. Instead the colonial¹ government was encouraged to settle its own policies.

Nonetheless Stephen could not afford to be complacent whilst Sir Colin Campbell remained as governor. Campbell was a completely ineffective governor. He was well over 70 before he succeeded to his post and quite² incapable of mastering the details of his work. As a result he was severely dependent on his officials for the execution of his duties and even for the drafting of his dispatches. One of his colonial secretaries openly claimed³ to rule him. Being unable to sort out the mass of documents which daily

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1. This was particularly true on legal matters: e.g. Rogers to Grey, 24 Sept. 1846, minute, C.O. 323/61, f. 423; see also Trevelyan to Stephen, 18 July 1846, minute, C.O. 54/230, Treasury.
 2. Campbell to Gladstone, 7 May 1846, Private, minutes, C.O. 54/224.
 3. Anstruther to Stanley, 15 Feb. 1845, minute, C.O. 54/221, Anstruther.

amassed on his desk, he was prone to take the line of least resistance and transmit them all, undigested and without comment, to the secretary of state¹ - much to the consternation of the Colonial Office. This behaviour intensely annoyed Stephen and he seems to have convinced Stanley to appoint in 1845 a new colonial secretary, Sir James Emerson-Tennent, to prop up the "aged and feeble" governor.² The experiment was not immediately successful. Stephen, judging by one of his minutes to Gladstone, continued to complain bitterly that "decision, vigour, and a preference for the public interest to the comfort of the persons immediately surrounding him, are gifts which the governor of Ceylon does not possess".³ Gladstone ignored the comment. But Grey agreed with Stephen. He decided almost immediately to replace Campbell, who had already served a term of five years, and began to look around for a strong successor. Stephen, impressed by this action, recommended that several important topics awaiting consideration should be left until the new governor was appointed.⁴

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1. E.g. Campbell to Stanley, 13 Aug. 1842, No. 125, minute, C.O. 54/198;
Campbell to Stanley, 17 Sept. 1842, No. 145, minute, C.O. 54/198;
Campbell to Stanley, 20 Oct. 1842, No. 168, minute, C.O. 54/199;
Campbell to Stanley, 16 Feb. 1843, No. 34, minutes, C.O. 54/203.
 2. Campbell to Stanley, 16 Oct. 1845, No. 208, minute, C.O. 54/219;
Campbell to Stanley, 4 June 1844, Private, minutes, C.O. 54/211.
 3. Campbell to Stanley, 16 Dec. 1845, Private, minute, C.O. 54/219. See also Campbell to Stanley, 3 Nov. 1845, No. 224, minute, C.O. 54/219.
 4. Campbell to Grey, 7 Nov. 1846, No. 65, minute, C.O. 54/227.

Grey was equally accommodating on the proposal to disestablish Buddhism. He pronounced Gladstone's policy on the subject incomprehensible and placed himself totally in Stephen's hands for recommendations as well as information.¹ Consequently the new governor, Viscount Torrington, received instructions to withdraw state support entirely from Buddhism and to leave the Buddhists to make their own provisions for their future organisation and government.² This decision was to prove one of the most controversial aspects of British policy in Ceylon and since Stephen was clearly a prime mover in its adoption, he has recently come under heavy fire for his views.³ It can be said in his defence that as both his policy on caste and his definition of Christianity show, his motives were more than those of religious bigotry. He sought by persuasion and example to overturn the feudal and reactionary elements in Ceylonese life and to let in the forces of science and liberalism.⁴ It is perhaps a little too much to expect that he should have seen that Buddhism and western civilization as he knew it were not incompatible.

At least his liberalism was uppermost in his dealings with the English

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1. Minute by Grey, 30 Apr. 1846, after Campbell to Stanley, 7 Feb. 1846, No. 37, C.O. 54/223.
 2. Campbell to Grey, 7 Nov. 1846, No. 65, minute, C.O. 54/227.
 3. de Silva, Social Policy, pp. 64-102.
 4. Notice his tenderness to "religious prejudices" in Campbell to Stanley, 7 Jan. 1845, No. 4, minute, C.O. 54/216.

churches. In 1846, at Stephen's behest, Grey agreed to end the custom of supporting Christian churches out of public funds. It proved impossible to dispense with public support altogether, but the "voluntary principle" - that those who wished to attend Christian churches must pay for their privileges - was officially endorsed.¹ Not even the Church of England was made an exception.² Before Stephen left office a virtual equality had been established between all the Christian churches in Ceylon, such as obtained in Australia, and there is no doubt that Stephen's insistent propaganda on behalf of ecclesiastical equality played a very big part in this final achievement.³

His influence on the civil service reforms also increased through Grey's support. In his last year in office, Stephen continually pressed his superior to deny civil servants the right to engage in coffee or sugar planting. In view of the compromises which Stanley and Gladstone had made even Stephen thought it inexpedient to attack those who held their lands before 1845. But for all officials appointed after that date he insisted upon clear and peremptory rules placing an absolute prohibition on their engaging in any way in plantation agriculture. Grey followed Stephen in this and in his decision to make all future promotions in the civil service

1. Campbell to Gladstone, 11 July 1846, No. 105, minute, C.O. 54/225;
Campbell to Gladstone, 11 July 1846, No. 105, C.O. 225.

2. Campbell to Grey, 10 Oct. 1846, No. 37, minutes, C.O. 54/226.

3. de Silva, Social Policy, pp. 42-51.

conditional upon the candidate relinquishing his plantation interests.

The ease with which Stephen communicated with Grey seems to have encouraged him to venture into new subjects to aid his superior. Despite his dislike of Treasury financial controls, Stephen had never really lost interest in the 1840s in the subject of Ceylonese revenue, but he had kept aloof from debates on it.² Meanwhile, his views underwent a change with the British adoption of free trade policies. He began to appreciate that British economic policy might conflict with the particular needs of a colony. Ceylon, lying just off the Indian sub-continent, could easily find itself, for example, becoming an exploited appendage of the Indian economy. For this reason among others, he had agreed with the governor and council to reverse his earlier support for Anstruther's proposal to remove the customs duties on a variety of products.³ He had also strongly opposed the creation of a free trade area comprising British India and Ceylon when it seemed likely that this would adversely affect Ceylonese wages and exports.⁴ But Stanley, dogmatic as ever, refused to support him.⁵ Nonetheless Stephen

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1. Langslow to Stanley, 17 Sept. 1844, minute, C.O. 54/215, Langslow; Campbell to Grey, 7 May 1846, Private, minutes, C.O. 54/224.
 2. Ideally he would have preferred a strong governor "managing the public revenue for the public good without the external check of minute Treasury regulations and interference": Campbell to Stanley, 4 June 1844, Private, minute, C.O. 54/211.
 3. Campbell to Stanley, 1 Sept. 1842, No. 129, minutes, C.O. 54/198.
 4. Campbell to Stanley, 22 Nov. 1841, No. 11, minute, C.O. 54/190; Tennent to Stephen, 11 Nov. 1841, minute, C.O. 54/193, India Board.
 5. Tennent to Stephen, 26 Feb. 1842, minutes, C.O. 54/200, East India Board.

continued to hope for some compromise between local and imperial interests.

With Grey as secretary Stephen felt able to tackle the subject more positively. Just as his views on free trade were becoming more complex, so his appreciation of commercial development through priming the pump was also undergoing a change. As Ceylon's trade increased and its population grew, expansion seemed more feasible and desirable. He argued that the government must be consistent in its decision to send grain seeds and livestock to the settlement colonies in Australasia and apply the same doctrine to non-settlement colonies. "Where there is no commercial impulse urging merchants in the same direction" as in Ceylon, the home government had to assist economic development.¹ Though he made no more specific recommendations, Stephen was even prepared to urge Grey to consider the "numerous and serious" complaints of Ceylonese merchants and planters.² He distrusted his knowledge of economics too much to go further. Early in 1847, a report by Emerson-Tennent, the colonial secretary, on Ceylon's finance and commerce, allowed him to consider the subject in greater depth.

Typically of his later years in office, Stephen's solution was not political but administrative. Pointing out that matters affecting trade and finance could never be settled by the Colonial Office alone, Stephen suggested that one of the Lords of the Treasury and the parliamentary under-secretaries at the Board of Trade and the Colonial Office should form them-

1. Trevelyan to Stephen, 18 July 1846, minute, C.O. 54/230, Treasury.

2. Campbell to Grey, 10 Oct. 1846, No. 36, minute, C.O. 54/226.

selves into a committee to settle policy and decide on all questions of the sort proposed by Emerson-Tement. This committee would work in close co-operation with the three respective political chiefs in the offices of state concerned and on colonial problems would consult, where necessary, with the governors and other experts. Decisions would be reached "privately and definitely" in committee before an official correspondence on the subject was begun. This procedure would save months of wasted circular official correspondence and would lead to clear decisions, mutually agreed to by all interested parties.¹ Stephen's suggestion was adopted. The new tax proposals hammered out for Ceylon in 1847 were a product of his inter-departmental committee.² As an administrative device, Stephen's committee fitted in perfectly with Grey's plans to liberalise the imperial economy and shows how sensitive Stephen was to the requirements of his chief. As a method of conducting colonial government it gives the lie to those who maintain that Stephen did nothing to solve the problem of inter-departmental co-operation.

In Trinidad and Sierra Leone Stephen had viewed the inhabitants as a people who had been brutalised by European slavery. Britain had accepted the moral obligation to protect them and had learned to tolerate their weaknesses. As colonists and Christians, the lost children of Ham were

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1. Campbell to Grey, 4 Nov. 1846, No. 60, followed by Stephen's memorandum, 14 Jan. 1847, C.O. 54/228. Stephen had proposed this procedure four years earlier but Stanley used it only once and insisted upon keeping personal control: MacGregor to Stephen, 14 Feb. 1842, minutes, C.O. 54/200, B. of T.
 2. See correspondence & papers in reports on finance, vol. 6, C.O. 54/228.

undergoing a process of redemption. "Asiatics" were quite different and their future less assured. Their degeneracy was of their own making and their salvation could only come through submission to the west. In India and in Ceylon Britain's conquest and colonisation had been distinctly lacking in principle originally, an act of acquisitive aggression: but atonement¹ was being made in the way the power thus gained was used.

The Ceylonese, when the British arrived, were wretchedly poor, utterly demoralised, sunk in idolatry and backward in all the arts of civilization.² Britain's mission was therefore to raise the people in the scale of civilization rather than to expect them to aid themselves.³ This difficult task had been cheerfully undertaken. The first forty years of British rule had seen the beginning of the fulfilment of one part of this mission - Ceylon had become more prosperous.⁴ But this in turn raised new problems. Ceylon began "degenerating into a colony cultivated for the benefit of absentees,

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1. Stephen's Diary for 1846, entry for 23 Feb. 1846; Campbell to Stanley, 8 May 1845, No. 96, minute, C.O. 54/217.
 2. Campbell to Russell, 9 Aug. 1841, No. 53, Stephen's memorandum, 16 Oct. 1841, C.O. 54/189.
 3. E.g. Campbell to Stanley, 20 Nov. 1844, No. 192, minute, C.O. 54/213. The attitude influenced his opinion on the possibility of granting Ceylon a representative assembly: e.g. Campbell to Stanley, 22 Nov. 1841, No. 11, minute, C.O. 54/190; Campbell to Stanley, 4 June 1844, Private, minute, C.O. 54/211.
 4. Stephen's memorandum, 28 Nov. 1840, on Anstruther's memorandum, 23 Nov. 1840, C.O. 54/185.

with a money-making European aristocracy to keep down the local government with the one hand and the natives with the other". To prevent this it was essential that Ceylon should be placed "under the government of a local power absolute if not despotic and ruled for the good of the feeble many¹ rather than for that of the strong and wealthy few".

The "feeble many" did not exist as individuals to Stephen but rather as objects of his solicitude and concern. There is no evidence that he ever met a Ceylonese whereas he was certainly familiar with Negroes from both the West Indies and West Africa. He apparently came to accept unquestioningly the standard caricature of the oriental as lethargic and volatile² or, as he himself put it, as a man "with relaxed fibre and irritable nerves". He recognised that there were individuals who thought highly of the Ceylonese. But probably, like governor Horton, he felt that with personal contact they would think "more meanly of their capacity and of their character".³ Contemporary knowledge of sociology was extremely primitive and it is clear that Stephen, like most members of the Colonial Office, never learned to distinguish between a Sinhalese and a Tamil. More alarmingly, he did not even learn to distinguish between the Sinhalese and the Veddhas, an aboriginal⁴ people living in remote isolation in the south-west of the island.

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1. Campbell to Stanley, 4 June 1844, Private, minute, C.O. 54/211.
 2. Rogers to Grey, 10 Feb. 1847, minute, C.O. 323/63, f. 362.
 3. Campbell to Stanley, 20 Nov. 1844, No. 192, minutes, C.O. 54/213.
 4. Campbell to Russell, 9 Aug. 1841, No. 53, Stephen's memorandum, 16 Oct. 1841, C.O. 54/189.

The unflattering caricature of the Ceylonese which he accepted, however, did not predispose Stephen to abandon them. He did not, like his friend Macaulay, look forward with pride to the day when the Asiatic would have acquired all that western civilization could teach. But this was partly because he was more concerned with immediate questions such as regulating social and political relations between the Asiatic inhabitants and the European immigrants.¹ Ceylon in 1846, with its aggressive, commercially-minded, small white population and its large, submissive coloured population, reminded Stephen, significantly, of Jamaica before 1833. From the analogy he drew an inevitable conclusion. Since the Ceylonese could neither appreciate nor perform the responsibilities and duties of civil liberty, the whites in Ceylon could not be permitted to enjoy a system of representative government:

"Such a legislature would, in fact, be an absolute oligarchy responsible to no-one for their actions, but armed with a power, crushing and intolerable to the great mass of people among whom they live".²

Trusteeship, enlightened administration, was as much required in the eastern as in the western empire.

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1. Campbell to Grey, 10 Oct. 1846, No. 36, minute, C.O. 54/226.
 2. Stephen's memorandum, 14 Jan. 1847, after Campbell to Grey, 4 Nov. 1846, No. 60, C.O. 54/228.

CHAPTER VI

Conclusion

James Stephen began his official association with the administration of the empire before the end of the Napoleonic Wars. Thirty-four years afterwards, when he retired, he could dimly perceive a pattern in the chaotic events through which he had lived. It was an age not just of reform but of rebirth. The Britain into which he had been born had been transformed almost out of recognition. "How the world has changed its mind since my youth! " he wrote in his diary in 1846. "I cannot think of a commonplace, political, philosophical or religious, which has not-received a grave shove since then. The results will be marvellous but I shall not see them. Still to be a river head, knowing that it is so, may be just as soul-enlarging a spectacle as to be at the estuary"¹.

The young man of twenty-four who had tentatively embarked on an official career in 1813 had been a conscious as well as unconscious beneficiary of the great changes which he later described. As legal counsel, he had begun ambitiously, seizing the opportunity presented to him by his appointment to restore the once important functions of his office. Within twelve years, he had converted his casual labours into an essential part of the administrative routine of a department of state, growing in size and expanding in function. This remarkable achievement was a demonstration not only of his

1. Stephen's Diary, entry for 28 Jan. 1846.

ability and energy but of the growing professionalism of bureaucracy in the early nineteenth century. At bottom, his work was valued not just because it was well performed but because it could not be performed at all without specialist knowledge and technical, legal skills.

The decision in 1825 to accept a full-time appointment opened a second phase in his career. From rendering occasional professional services to a government department, he found himself part, and only a very minor part, of a complex administrative machine, comprising statesmen and politicians, bureaucrats and clerks, copyists and messengers. Promotion in such an atmosphere was not easy. Though each man had individual tasks, officials required more than simply professional skills. The eager subordinate had to catch the eye of his chiefs by his ability to turn his hand to whatever work the daily routine required. To be influential, he had to persuade them that his solutions were not only practicable but expedient. Even expertise was no guarantee of ultimate reward. Colonial administration was a function of government and as such was part and parcel of the political life of the nation and the patronage which went with it. The selection of even the humblest clerk began with the electors at the polls.

The prospect of becoming involved in the political lists held no pleasure for Stephen. He refused to see his work as political and denied that party interests were concerned. But events defied him. The door to advancement was opened to him in 1834 when his political friends were in office and rudely barred a year later by a similar intrusion of party politics into the office promotions. His future career, the position on which he had

set his sights twelve years before, was placed in jeopardy. By using his political connections he could be sure of achieving his aims, but this would prejudice his hopes of future security and cast doubts on his assertion that the official advisers were outside politics. Ultimately his ambition outweighed his political scruples. In 1836 he forced Glenelg to dismiss Hay so as to make way for his own appointment. The lesson, as he feared, was not lost on interested observers. "I lament when old private friends are compelled to separate by the irresistible forces of political disunion", Wilmot Horton wrote to Glenelg from Ceylon, "but so it must be as long as¹ the English constitution lasts".

To repair his fences, Stephen, when he became permanent under-secretary, devised a system of administrative routine in which a strict line was drawn between political and administrative duties. In some respects his system was cumbersome and inefficient; but it had enough resilience to survive and adapt. In its constructive aspects it became a portent for the whole civil service in the nineteenth century. Essentially, what he did was to distinguish between civil servants, in which category he included all of the permanent officials, and responsible officers, meaning the political chiefs at the head of the office. Most administrative problems were to be wrought out by the permanent staff and their solutions submitted through the permanent under-secretary to the politicians. When the secretary of state's wish was known, the permanent staff again took over to give final effect to the decision.

The general adoption of this procedure throughout the civil service has given it an appearance of obviousness and inevitability which conceals its

1. Horton to Glenelg, 23 July 1836, Private, C.O. 54/148.

revolutionary character. Not only was it a remarkably shrewd solution to the problem of integrating a bureaucracy into a parliamentary system, but it enshrined a doctrine of ministerial responsibility, equally precocious and enlightened. Above all, it was a solution which peculiarly suited Stephen and which derived from his experience of working with and observing officials and politicians. "It is one thing to suggest good measures for which another is responsible", he wrote on one occasion, "and a very different thing to find the courage and constancy requisite for sustaining that responsibility".¹ Efficient government could be best obtained by a system where the different qualities and values of the politicians and the officials could complement rather than compete with each other.

To the operation of the office machine Stephen brought his experiences as a lawyer. He could do little to overcome the current reluctance to expend governmental resources on building up the civil service but he could re-organize the work which the permanent officials performed so as to make the best use of the available staff. His main solution was the organization of a copyists department which anticipated in many ways the division of the civil service into clerical and administrative grades. While he remained in office the implications of his work were hardly appreciated outside the Colonial Department; but with the Northcote-Trevelyan report on the civil service in the mid-nineteenth century, Stephen appeared in public as an

1. Anstruther to Stanley, 15 Feb. 1845, minute 27 Mar. 1845, C.O. 54/221.

authority on the subject. As a result his influence on the organisation and functioning of the civil service long survived him.

Though an understanding of the history of the civil service is essential for any appreciation of Stephen's career, the process by which a lawyer rendering occasional services was transformed into a powerful under-secretary cannot be explained simply by the developing nature of the bureaucracy. Stephen's work attained political significance in large measure because of his ability and diligence in dealing with particular colonial problems. A study of the administration of three crown colonies, Trinidad, Sierra Leone and Ceylon, in the period between 1813 and 1847, reveals the extent to which Stephen was a self-made man with opinions which carried force. The slavery question, the Stephen family crusade, provided an opportunity to gain political authority. Arduous work and technical proficiency ensured his success. By 1830 Stephen's contribution was considered indispensable.

In addition to slavery questions, legal problems on the constitutional relationship between mother country and colonies or among the local agencies of government within colonies provided much of the early work on which he was engaged. But throughout his career his work could and did include every feature of colonial life. His reports were meant to be technical, dispassionate and formal: but often they were not. He held too strong opinions to be so objective. Directly or under cover of an appeal to abstract legal principles, his opinions found their way into many of his reports. By 1836 his distinctive influence had begun to permeate colonial legislation everywhere.

On legal questions Stephen was an admirer of Bentham. He seems to

have believed that law was or should be the instrument for reforming society in the interests of the majority. He saw the British constitution as a balance between individual equality guaranteed by law and individual freedom ensured by the limitation of governmental restraints. The local governments in the crown colonies were authoritarian and unrepresentative of the mass of the people. Stephen, who wanted the blessings of the British constitution to be extended to the empire, used his influence as legal counsel to introduce more liberal and egalitarian ideas into the colonial legislatures. He had no single uniform plan but in each colony a similar policy resembling what was later called trusteeship emerged. The authority of the imperial government was utilised to ensure that colonial government was conducted in the interests of the majority of the governed.

In Trinidad his main contribution was to protect the Negroes from the local white oligarchy. He helped to establish and defend the policy of slave amelioration which sought to improve the conditions of slaves and to prepare them for their emancipation. He played an important role in the final achievement of abolition; and he tried to ensure that the apprenticeship system worked to the benefit of the apprentices. In each case he made the local government answerable to the Colonial Office for its treatment of the Negro majority in the population. Legalised discrimination was not permitted to replace slavery. With slavery abolished, Stephen's attention turned to the new schemes of labour recruitment and land policies by which Trinidad's government attempted to overcome the loss of its slave labour force. Since the immigrants and peasants found their interests threatened

by the influence of the planters in the local government, Stephen favoured imperial regulations and close Colonial Office supervision to restore the balance. Thereafter, in protecting the welfare of the free Negroes, he was concerned to show that emancipation had been a success.

Sierra Leone presented the difficult administrative problem of an expansive frontier. Stephen was not against contiguous colonial expansion but he had three provisos: expansion was permissible only where the rights of the native peoples, and particularly their sovereign rights over their lands, had been respected; the home government must also be persuaded in each case that expansion was necessary and expedient; and all territorial acquisitions were to be strictly limited to what was immediately required. Just as he protected the slave and free Negro, Stephen used the authority of the imperial government to protect the indigenous Africans, both inside and outside the colony, against the discriminatory laws or aggressive designs of the settlers. Within the colony he tended to favour the recaptives against the Europeans, partly as a means of attaching them to the government and anglicising them, and partly because he felt they made better settlers than Europeans, who succumbed too easily to the climate. Sierra Leone was seen as an outpost of the anti-slavery cause and the spearhead of Britain's civilizing mission in West Africa. Though the colony was unpromising and a drain on imperial resources, the mother country was morally obliged to maintain it to sustain these great causes.

On Ceylonese administration his work showed the same degree of enlightened paternalism. He was early associated with the westernizing and

liberalising policies which formed the basis of the more radical recommendations in the Colebrooke-Cameron report. His interests in time extended to further reforms in the civil service, the judiciary and the church. Largely under Stephen's influence the conditions for civil servants in Ceylon were improved in the 1840s, the first step in the rehabilitation of a demoralised local government. He was also concerned in the judicial reforms to ensure that the law should protect the humble. More controversially, Stephen insisted upon the severance of the connection between the state and the religion practised by the majority of the people - Buddhism. But though the use of imperial authority was more striking and more arrogant in Ceylon, the pattern was the same. What Stephen aimed at was the overthrow of a 'despotic' oriental society and the introduction of western civilization, through the legal system, the religion and the administrative network of the mother country. Like Macaulay, his greatest strength and greatest weakness was his confidence in the universal superiority of western 'enlightenment'.

Once the majority interests were safeguarded, Stephen became a staunch believer in colonial legislative and administrative initiative. Even in crown colonies, he doubted the value of placing restrictions on the right of local legislatures to deal with any subject of internal concern. He wanted the legislatures to be made as fully representative as possible of the colonial society. Elections were generally ruled out since the propertied and politically articulate section of the population was unrepresentative of the majority. But unofficial members from the majority groups could be appointed, with advantage, to the legislature. He also wanted to give the

colonial legislatures greater responsibility. Governors were ordered to consult their councils in making decisions; and even control over the judiciary, which had been considered an imperial prerogative, was surrendered, on Stephen's advice, to the legislatures. Of course, the answerability of the local government to the imperial was demanded throughout. Representation stopped well short of a legislature with a non-official or popular majority. Responsibility stopped well short of local autonomy. But, whatever the theory, Stephen was increasingly prepared to allow the colonies to govern themselves with merely an occasional word of counsel or command from London. He relied rather on the experience of political responsibility and the operation of the reformed law to gradually produce in the colonies a state of political maturity.

Despite these progressive elements in his thought, Stephen was no bold theorist carving out the paths to the multi-racial Commonwealth. He was sceptical of the capacity of colonial peoples to assimilate fully western civilisation and, with the exception of religious subjects, he distrusted the whole idea of forcing colonial 'development', whether political, social or economic. He preferred to move gradually, to lay the foundations of a westernized, liberal state, and to hope that further changes would not outpace the material and moral improvement of the colonial peoples themselves. His conception of the role of the permanent under-secretary was also limited. If one general conclusion can be drawn from his work on the Colonial Office and on the administration of Trinidad, Sierra Leone and Ceylon, it is that Stephen remained throughout his career a great subordinate. Nor did he see

himself as a statesman in disguise, planning the long-term future policies of government. He preferred to serve his superiors as they wanted, to provide them with his expert knowledge of detail, his practical advice, and his proposals for immediate action - to be, in short, a power behind the throne.

The role of zealous subordinate may have been somewhat frustrating for an aggressive man; but it suited him. He felt uncomfortable in the role of prophet and leader. As a pessimist with a touch of idealism, he generally eschewed the glorious visions of the future which moved some of his contemporaries. He distrusted apocalyptic solutions and fixed his mind on the immediate problems. Consequently, his enormous labours seem impressive rather than inspiring. As always, he was the perfect self-critic:

"My biographer.....will in describing my intellectuals say, He was distinguished chiefly for rapidity of conception and of execution - the things conceived and the things executed being however middling things, efforts of sagacity not of invention, clear arrangements of obvious truths rather than curious assortments of truths remote from vulgar notice; a ready, plausible, handy, person in the whole circuit and region of his own affairs". 1

No biographer could miss the sensitivity, the modesty, or the acute intelligence embodied in that self-judgement.

1. Stephen's Diary, entry for 9 Jan. 1846.

B I B L I O G R A P H Y

S O U R C E S

Manuscript Collections

I. LONDON

A. Public Record Office.

(i) Colonial Office and General.

Law Officers:

C.O. 323/39 to 63. Law officers' reports on colonial acts: Baldwin, Stephen, Rogers & Wood.

Colonies General Series:

C.O. 323/182 to 232. Public Offices and Miscellaneous Original Correspondence.

C.O. 324/135 to 148. Entry Books of Commissions etc., Letters from Secretary of State.

C.O. 325/37. Miscellaneous Memoranda.

C.O. 380/60, 61, 83, 84, 137. Draft Letters Patent etc.

C.O. 381/26, 74. Entry Books, Series II, Commissions etc.

Miscellaneous Colonial Office Material:

C.O. 523/1A. Chief Clerk: Original Correspondence, 1843-1848.

C.O. 537/22. Supplementary: Colonial Office Establishment.

C.O. 878/1, 2, 14, 15. Establishment Miscellanea.

Board of Trade Papers:

B.T. 5/34 to 43. Minutes of Board of Trade.

B.T. 6/165-169. Orders in Council referring to colonial laws.

B.T. 6/249. Trade minutes, colonial laws.

B.T. 6/282. Drafts of Board minutes sent to Privy Council and Colonial Office on colonial acts.

Miscellaneous: Antigua & Montserrat:

C.O. 7/45. Original Correspondence: Secretary of State.

(ii) Trinidad.

Original Correspondence, Secretary of State:

C.O. 295/29 to 159. In letters.

Entry Books of Correspondence:

C.O. 296/5 to 19. Out letters.

(iii) Sierra Leone.
 Original Correspondence, C.O. 267/36 to 202. In letters.
 Secretary of State:
 Entry Books of Correspondence: C.O. 268/19 to 42. Out letters.

(iv) Ceylon.
 Original Correspondence, C.O. 54/49 to 243. In letters.
 Secretary of State:
 Entry Books of Correspondence: C.O. 55/63 to 90. Out letters.

(v) Private Papers.
 The Private Papers of Lord John Russell: P.R.O. 30/22 series.

B. The British Museum.

(i) Gladstone Papers: Add. MS. 44275 to 44819.
 (ii) Macvey Napier Papers: Add. MS. 34618 to 34626.
 (iii) Peel Papers: Add. MS. 40538, 40571.
 (iv) Huskisson Papers: Add. MS. 38748, 38751.
 (v) Hone Papers: Add. MS. 41071.
 (vi) Liverpool Papers: Add. MS. 38416.
 (vii) Ripon Papers: Add. MS. 40880.
 (viii) Dilke Papers: Add. MS. 43878.

C. Dr. Williams's Library, 14 Gordon Square, W.C.1.

Selections from the Henry Crabb Robinson Papers. For Guides:
 Edith Morley, Henry Crabb Robinson on Books and Their Writers
 (3 vols., Dent, 1938); & Inez Elliott, Index to the Henry Crabb
Robinson Letters in Dr. Williams's Library (London, 1960).

D. King's College.

Stephen Papers: at present in the possession of Professor G.S. Graham.
 (i) Seven Journals of copied letters, probably made by Carolino
 Emilia Stephen in preparation for her book on "The First Sir James
 Stephen".

- a. Letters to various correspondents, 1807-1839; entitled
 "Various, 1807-1839. I".
- b. Letters to various correspondents, 1839-1858: entitled
 "Various, 1839-1858. II".
- c. Letters to Jane Catherine Stephen, 1816-1845: entitled
 "J.S. to J.C.S., 1816-1845. I".

- d. Letters to Jane Catherine Stephen, 1845-1857: entitled "J.S. to J.C.S., 1845-1857. II".
 - e. Letters to Jane Catherine Stephen, 1857-1859: entitled "J.S. to J.C.S., 1857-1859 III".
 - f. Letters to James Fitzjames Stephen, 1841-1859: entitled "J.S. to J.F.S., 1841-1859".
 - g. A diary kept by Stephen, 1 Jan. - 6 Sept. 1846: entitled "Journal".
- (ii) 109 pages of loose-leaves torn from journals of the same type as the seven above also consisting of copies of letters and again probably made by Caroline Emelia Stephen. The correspondents are various: see C.E. Stephen, The First Sir James Stephen.
 - (iii) Separate Letters. Letters both from and to Stephen. Some are copies made contemporaneously on separate notepaper. Correspondents are Stanley, Howick (Grey), Hope, Glenelg, Sidney Joseph (one of Stephen's amanuenses), Robert Grant (on East India Company appointments), Gladstone and Taylor.
 - (iv) Journal kept by Jane Catherine Venn (later Mrs. Stephen) recording her father's last illness and death.
 - (v) List of titles or first words and a number of copies of articles written by Stephen for the Northampton Mercury together with two letters on the subject from the editor, de Wilde, to Lady Stephen in the 1860s.
 - (vi) Letters in cypher and shorthand.
 - (vii) Letter from George Wilder to Herbert Stephen appointing him to a clerkship in the Colonial Office.

II. DURHAM

Prior's Kitchen, The Cathedral.

The Papers of the Third Earl Grey.

III. OXFORD

Bodleian Library.

Henry Taylor's Papers:

M.S. Eng. letters, c.1, c.3, d.6 to 10, 25 to 27; M.S. Eng. misc., f.58 and d.208.

IV. CAMBRIDGE

Cambridge University Library:

Stephen Diary, Add. MS. 7511 (F).

Wren Library, Trinity College:

Whewell Papers.

V. EDINBURGH

National Library of Scotland:

Murray Papers; MS. 46.3.4., vol. 169; 46.3.6., vol. 171;
& 46.3.7., vol. 172.

Hope-Scott Papers: MS. 3669.

VI. DUBLIN

National Archives.

Monteagle Papers: MS. 550. ff. 76-83. This document was made available to me on a xerox copy. It was kindly drawn to my attention by Professor H.T. Manning.

Official Printed Materials

I. Parliamentary Papers

(i) General.

H.C.	1840	xxxiii	(35). Commission to Land and Emigration Commissioners.
	1845	xxxi	(49), (589). Statistical returns.
	1846	xxvii	(168). Orders in council on masters and servants.
		xxvii	(455). Appointment of assistant under-secretary.
	1847-8	xviii	Part I (543). Select committee, miscellaneous expenditure.
		xlii	(42), (371). Additional assistant under-secretary.
	1854	xxvii	(1713), (1715). Report on the permanent civil service.
	1854-5	xx	(1870). Report on re-organization of civil service.

(ii) Trinidad.

H.C.	1826-7	xxiii	(465), (479), (478), (551). Trinidad correspondence.
	1828	xxiii	(525). Trinidad land grants.
	1837-8	lii	(180), (232). Masters and servants, British Guiana & Mauritius.
	1840	xxiv	(82). Trinidad immigration.
	1842	xxix	(379). West Indies papers.
	1843	xxiv	(438). West African emigration.
	1844	xxxv	(530). West African, East Indian and Chinese emigration.
	1847	xxxix	(325), (496). West Indies immigration.

(iii) Sierra Leone.

H.C. 1826-7 vii (312), (552). West African commissioners report.
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 West Africa.

(iv) Ceylon.

H.C. 1833 xxvi (332). Ceylon charter of justice.
 1845 xxi (640). Civil service correspondence.

II. Parliamentary Debates

Hansard's Parliamentary Debates.

III. Statutes

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This is not an exhaustive bibliography which, for obvious reasons, cannot be attempted here. It consists simply of the titles of books and articles and unpublished theses which are either mentioned in the text or are important sources for material relating to the text. For the more general context three bibliographical guides are especially useful:

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